

91ST CONGRESS  
1ST SESSION

# S. 30

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## IN THE SENATE OF THE UNITED STATES

JANUARY 15 (legislative day, JANUARY 10), 1969

Mr. McCLELLAN (for himself, Mr. ERVIN, and Mr. HRUSKA) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

Relating to the control of organized crime in the United States.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That this Act shall be known as the "Organized Crime Con-  
4       trol Act of 1969".

### 5       CONGRESSIONAL FINDINGS AND STATEMENT OF POLICY

6       The Congress finds (1) that organized crime in the  
7       United States is a highly sophisticated, diversified, and ubiq-  
8       uitous illegal business which annually drains billions of  
9       dollars from America's economy and operates by an insidious  
10      reign of terror; (2) that organized crime derives its power  
11      through money obtained from such illegal activities as gam-

1 bling, loan sharking, narcotics, and other forms of vice; and  
2 that this money and power, in turn, is being increasingly  
3 used to infiltrate legitimate businesses and labor unions; (3)  
4 that the danger of organized crime activities in the United  
5 States threatens the internal security, peace, and general  
6 welfare of the Nation and its citizens; and (4) that organized  
7 crime continues to grow despite efforts to deal with it, be-  
8 cause of defects in the evidence-gathering process that make  
9 it difficult to develop legally admissible evidence so that  
10 criminal and other sanctions might be brought to bear on  
11 the unlawful activities of organized crime.

12 It is, therefore, the declared policy of the Congress to  
13 seek the eradication of organized crime in the United States  
14 by the enactment of remedial legislation and by the author-  
15 ization and appropriation of funds where necessary to carry  
16 out such legislation. The Congress, therefore, believes that  
17 the various legal tools which are available to the Government  
18 in the evidence gathering process must be strengthened and  
19 vitalized.

## 20 TITLE I—GRAND JURY

21 SEC. 101. Section 3321, title 18, United States Code, is  
22 amended by adding at the end thereof the following new sen-  
23 tence: “Members of a grand jury shall be selected in accord-  
24 ance with the provisions of chapter 121.”.

25 SEC. 102. (a) Section 3322, title 18, United States  
26 Code, is amended to read as follows:

1   **“§ 3322. Summoning and term**

2           “(a) Each district court shall order a grand jury to be  
3   summoned at least once in each period of eighteen months. A  
4   grand jury shall serve for a term of eighteen months unless  
5   an order for its discharge is entered earlier by the court upon  
6   a determination of the grand jury by majority vote that its  
7   business has been completed. If, at the end of such term or  
8   any extension thereof, a grand jury determines by majority  
9   vote that its business has not been completed, the court shall  
10   enter an order extending such term for an additional period  
11   of six months. No term of a grand jury so extended shall  
12   exceed thirty-six months.

13           “(b) If a district court within any judicial circuit fails  
14   to extend the term of a grand jury upon application made by  
15   the grand jury pursuant to subsection (a), or enters an order  
16   for the discharge of a grand jury before it determines that it  
17   has completed its business, the grand jury, upon the affirma-  
18   tive vote of a majority of its members, may apply to the chief  
19   judge of the circuit for an order for the continuance of the  
20   term of the grand jury. Upon the making of any such appli-  
21   cation by a grand jury, the term thereof shall continue until  
22   the entry upon such application by the chief judge of the  
23   circuit of an appropriate order in conformity with the pro-  
24   visions of subsection (a). No term of a grand jury shall  
25   extend for a period longer than thirty-six months by reason  
26   of any such continuance.”.

1       (b) The item relating to section 3322, title 18, United  
2 States Code, contained in the section analysis of chapter  
3 215 of that title is amended to read as follows:

“3322. Summoning and term.”.

4       SEC. 103. (a) Section 3324, title 18, United States  
5 Code, is amended to read as follows:

6       **“§ 3324. Powers and duties**

7       “(a) Each grand jury when impaneled shall elect by  
8 majority vote a foreman and a deputy foreman from among  
9 its members.

10       “(b) It shall be the duty of each grand jury impaneled  
11 within any judicial district to inquire into each offense  
12 against the criminal laws of the United States alleged to  
13 have been committed within that district which is brought  
14 to the attention of the grand jury by the court or by any  
15 person.

16       “(c) No person shall be deprived of opportunity to  
17 communicate to the foreman of a grand jury any informa-  
18 tion concerning any such alleged offense or instance of  
19 misconduct.

20       “(d) Whenever a grand jury impaneled within any  
21 judicial district determines by majority vote that the volume  
22 of business of the grand jury exceeds the capacity of the  
23 grand jury to discharge its obligations, the grand jury may  
24 apply to the district court to impanel an additional grand

1 jury for that district. Upon any such application and a  
2 showing of need, such court shall order an additional grand  
3 jury to be impaneled. If the district court declines to hear  
4 any such application, or to grant any such application after  
5 hearing, the grand jury may apply to the chief judge of the  
6 circuit for an order impaneling an additional grand jury  
7 for that district. Such chief judge shall hear and determine  
8 such application at the earliest practicable time, and shall  
9 have jurisdiction to enter thereon such orders as may be  
10 required to provide for the impaneling of an additional grand  
11 jury within the judicial district for which such application  
12 was made.

13 “(e) Whenever a grand jury determines by majority  
14 vote that any attorney or investigative officer or agent  
15 appearing on behalf of the United States before the grand  
16 jury for the presentation of evidence with respect to any  
17 matter has not performed or is not performing his duties  
18 diligently and effectively, the grand jury may transmit to  
19 the Attorney General in writing a statement of the reasons  
20 for such determination, together with a request for the  
21 designation by the Attorney General of another attorney  
22 or investigative officer or agent to appear before the grand  
23 jury for that purpose. Upon receipt of any such request,  
24 the Attorney General shall promptly cause inquiry to be  
25 made as to the merits of the allegations made by the grand

1 jury, and take appropriate action to provide for the United  
2 States prompt and effective representation before the grand  
3 jury with respect to that matter.”.

4 (b) The item relating to section 3324, title 18, United  
5 States Code, contained in the section analysis of chapter 215  
6 of that title is amended to read as follows:

“3324. Powers and duties.”.

7 SEC. 104. (a) Chapter 215, title 18, United States  
8 Code, is amended by adding at the end thereof the following  
9 new section:

10 **“§ 3330. Reports**

11 “(a) A grand jury impaneled by any district court,  
12 with the concurrence of a majority of its members, may  
13 submit to the court a report—

14 “(1) concerning noncriminal misconduct, non-  
15 feasance, or neglect in office by a public officer or  
16 employee as the basis for a recommendation of removal  
17 or disciplinary action; or

18 “(2) stating that after investigation of a public  
19 officer or employee it finds no misconduct, nonfeasance,  
20 or neglect in office by him, provided that such public  
21 officer or employee has requested the submission of such  
22 report; or

23 “(3) proposing recommendations for legislative,  
24 executive, or administrative action in the public interest  
25 based upon stated findings.

1       “(b) The court to which such report is submitted shall  
2 examine it and the minutes of the grand jury and, except as  
3 otherwise provided in subsection (g) of this section, shall  
4 make an order accepting and filing such report as a public  
5 record only if the court is satisfied that it complies with the  
6 provisions of subsection (a) of this section and that—

7               “(1) the report is based upon facts revealed in the  
8 course of an investigation authorized by section 3324  
9 (b) and is supported by the preponderance of the evi-  
10 dence; and

11              “(2) when the report is submitted pursuant to  
12 paragraph (a) (1) of this section, that each person  
13 named therein was afforded an opportunity to testify  
14 before the grand jury prior to the filing of such report,  
15 and when the report is submitted pursuant to paragraph  
16 (a) (2) or (a) (3) of this section, it is not critical of an  
17 identified or identifiable person.

18              “(c) (1) An order accepting a report pursuant to para-  
19 graph (a) (1) of this section and the report shall be sealed  
20 by the court and shall not be filed as a public record, sub-  
21 ject to subpoena or otherwise made public (A) until at least  
22 thirty-one days after a copy of the order and report are  
23 served upon each public officer or employee named therein  
24 or (B) if an appeal is taken, until the affirmance of the  
25 order accepting the report, reversal of the order sealing the

1 report or dismissal of the appeal of the named public officer  
2 or employee by the appellate court, whichever occurs later.

3 “(2) Such public officer or employee may file with the  
4 clerk an answer to such a report, not later than twenty days  
5 after service of the order and report upon him. Such an  
6 answer shall plainly and concisely state the facts and law  
7 constituting the defense of the public officer or employee to  
8 the charges in said report, and, except, those parts thereof  
9 which the court may determine to be scandalously or preju-  
10 diciously and unnecessarily inserted therein, shall become  
11 an appendix to the report.

12 “(3) Upon the expiration of the time set forth in para-  
13 graph (c) (1), the United States attorney shall deliver a  
14 true copy of such report, and the appendix if any, for appro-  
15 priate action, to each public officer or body having removal  
16 or disciplinary authority over each public officer or employee  
17 named therein.

18 “(d) Upon the submission of a report pursuant to sub-  
19 section (a), if the court finds that the filing of such report  
20 as a public record may prejudice fair consideration of a  
21 pending criminal matter, it shall order such report sealed  
22 and such report shall not be subject to subpoena or public  
23 inspection during the pendency of such criminal matter,  
24 except upon order of the court.

25 “(e) Whenever the court to which a report is sub-



1   mitted pursuant to paragraph (a) (1) is not satisfied that  
 2   the report complies with the provisions of subsection (b), it  
 3   may direct that additional testimony be taken before the  
 4   same grand jury, or it shall make an order sealing such  
 5   report and it shall not be filed as a public record, subject to  
 6   subpena or otherwise made public.

7       “(f) Within thirty days after a copy of an order of a  
 8   district court of any judicial circuit and a report is served  
 9   upon a public officer or employee under paragraph (c) (1),  
 10   such public officer may file with the circuit court for that  
 11   judicial circuit an appeal from such order. Upon the filing  
 12   of any such appeal, the circuit court shall have jurisdiction  
 13   to hear and determine such appeal, and to enter therein such  
 14   orders (including such orders for the sealing of matter  
 15   relating to the appeal pending the determination thereof)  
 16   as the court may determine to be proper.

17       “(g) As used in this section, the term ‘public officer  
 18   or employee’ means any officer or employee of the United  
 19   States, or any State or any political subdivision, or any de-  
 20   partment, agency, or instrumentality thereof.”.

21       (h) The section analysis of chapter 215, title 18, United  
 22   States Code, is amended by adding at the end thereof the  
 23   following new item:

“3330. Reports.”.

1        SEC. 105. The amendments made by this title shall take  
2        effect on the first day of the seventh month which begins  
3        after the date of enactment of this Act.

4                                TITLE II—IMMUNITY

5        SEC. 201. Chapter 1 of title 18, United States Code, is  
6        amended by adding at the end thereof the following new  
7        section:

8        **“§ 16. Compelling of testimony and other evidence with**  
9                        **respect to Federal offenses**

10        “Whenever in the judgment of a United States attorney  
11        the testimony of any witness, or the production of books,  
12        papers, or other evidence by any witness, in any case or  
13        proceeding before any grand jury or court of the United  
14        States involving a violation of any law of the United States,  
15        or any conspiracy to violate any such law, is necessary to  
16        the public interest, the United States attorney, upon the  
17        approval of the Attorney General or an Assistant Attorney  
18        General designated by the Attorney General, shall make ap-  
19        plication to such court that the witness shall be instructed to  
20        testify or produce evidence, subject to the provisions of this  
21        section. Upon order of the court such witness shall not be  
22        excused from testifying or from producing books, papers, or  
23        other evidence on the ground that the testimony or evidence  
24        required of him may tend to incriminate him or subject him  
25        to a penalty or forfeiture. In no case, however, shall any

1 such testimony or evidence so compelled as a result of such  
 2 court order, or any evidence, knowledge, or information the  
 3 source of which is attributable to any such testimony or  
 4 evidence so compelled, be used as evidence or in any other  
 5 manner against him in, or in connection with, any proceeding,  
 6 case, or matter before any grand jury, court, or other author-  
 7 ity of any State or of the United States, other than in  
 8 connection with a prosecution for perjury or contempt com-  
 9 mitted while giving testimony or producing evidence under  
 10 compulsion as provided in this section.”

11 SEC. 202. The analysis of chapter 1 of title 18, United  
 12 States Code, is amended by adding at the end thereof the  
 13 following new item:

“16. Compelling of testimony and other evidence with respect to Federal  
 offenses.”

### 14 TITLE III—RECALCITRANT WITNESSES

15 SEC. 301. (a) Chapter 119, title 28, United States  
 16 Code, is amended by adding at the end thereof the following  
 17 new section:

#### 18 “§ 1826. Recalcitrant witnesses

19 “(a) Whenever a witness attending in any court or  
 20 appearing before any grand jury of the United States fails  
 21 or refuses without just cause to comply with an order of  
 22 the court to give testimony in response to a question or with  
 23 respect to any matter, the court, upon such failure or refusal

1 or when such failure or refusal is duly brought to its atten-  
 2 tion, may summarily order his confinement at a suitable place  
 3 until such time as the witness is willing to give such  
 4 testimony.

5 “(b) No person confined pursuant to subsection (a)  
 6 shall be admitted to bail pending the determination of an  
 7 appeal taken by him from the order for his confinement.”.

8 (b) The section analysis of chapter 119, title 28, United  
 9 States Code, is amended by adding at the end thereof the  
 10 following new item:

“1826. Recalcitrant witnesses.”.

#### 11 TITLE IV—FALSE STATEMENTS

12 SEC. 401. Chapter 79 of title 18, United States Code, is  
 13 amended by the addition of the following section:

#### 14 “§ 1623. False statement before grand jury or court

15 “(a) Whoever, having taken an oath in any trial,  
 16 hearing, or proceeding before any court or grand jury, in  
 17 which a law of the United States authorizes the oath,  
 18 knowingly falsifies fact, or makes any false, fictitious, or  
 19 fraudulent statement or representation, or makes or uses  
 20 any false writing or document knowing the same to contain  
 21 any false, fictitious, or fraudulent statement or entry, shall  
 22 be fined not more than \$10,000 or imprisoned not more  
 23 than five years, or both.

24 “(b) Whoever procures or instigates another to commit

1 any of the acts prescribed herein shall be fined not more  
2 than \$10,000 or imprisoned not more than five years, or  
3 both.

4 “(c) This section is applicable whether the statement or  
5 subscription was made within or without the United States.

6 “(d) An indictment or information for violation of this  
7 section alleging that the offender, under oath or affirmation,  
8 has made contradictory statements or testimony material to  
9 the issue or point in question in any trial, hearing, or pro-  
10 ceeding before any court or grand jury, where such oath or  
11 affirmation is authorized by the law of the United States,  
12 need not specify which statement or testimony is false. In  
13 any prosecution under this section, the falsity of the testi-  
14 mony or statement set forth in the indictment or information  
15 shall be presumptively established by proof that the defend-  
16 ant made manifestly contradictory statements or testimony  
17 material to the issue or point in question, in any trial, hear-  
18 ing, or proceeding before any grand jury while under oath  
19 authorized by the law of the United States. Where the con-  
20 tradictory statements are made in the same continuous trial,  
21 an admission by the offender in that same continuous trial  
22 of the falsity of a contradictory statement shall bar prose-  
23 cution therefor under any provisions of this section.”

24 SEC. 402. The analysis of chapter 9 of title 18, United

1 States Code, is amended by adding the following new item  
2 at the end thereof:

“1624. False statement before grand jury or court.”

3 TITLE V—DEPOSITIONS

4 SEC. 501. (a) Chapter 223 of title 18, United States  
5 Code, is amended by adding at the end thereof the following  
6 new section:

7 “§ 3501. Depositions

8 “(a) Whenever it is in the interest of justice that that  
9 testimony of a prospective government witness be taken and  
10 preserved, the court, at any time after the filing of an  
11 indictment or information may upon motion and notice to  
12 the defendant, order that his testimony be taken by deposi-  
13 tion and that any designated books, papers, documents or  
14 tangible objects, not privileged, be produced at the same  
15 time and place. If a witness is committed for failure to give  
16 bail to appear to testify at a trial or hearing, the court on  
17 written motion of the witness and upon notice to the parties  
18 may direct that his deposition be taken. After the deposition  
19 has been subscribed the court may discharge the witness.

20 “(b) A deposition shall be taken and filed in the man-  
21 ner provided in civil actions. The court may direct that a  
22 deposition be taken on written interrogatories in the manner  
23 provided in civil actions.

24 “(c) At the trial or upon any hearing, a part or all of a

1 deposition, so far as otherwise admissible under the rules of  
2 evidence, may be used if the court is satisfied that the appear-  
3 ance of the witness cannot be obtained because the witness  
4 is dead, or is out of the United States, or is unable to attend  
5 or testify because of sickness or infirmity, or because the  
6 Government has been unable to procure the attendance of  
7 the witness by subpoena. Any deposition may also be used  
8 by any party for the purpose of contradicting or impeaching  
9 the testimony of the deponent as a witness. Both the de-  
10 fendant and his attorney shall be given reasonable advance  
11 notice of the time and place set for the examination. The  
12 officer having custody of a defendant shall be notified of the  
13 time and place set for the examination, and shall produce  
14 him at the examination and keep him in the presence of the  
15 witness during the examination. A defendant not in custody  
16 shall have the right to be present at the examination, but his  
17 failure to appear after notice and tender of expenses shall  
18 constitute a waiver of that right. The Government shall pay  
19 to the defendant's attorney and to a defendant not in custody  
20 expenses of travel and subsistence for attendance at the  
21 examination. The Government shall make available to the  
22 defendant for his examination and use at the taking of the  
23 deposition any statement of the witness being deposed which  
24 is in the possession of the Government and which the Gov-

1 ernment would be required to make available to the defend-  
2 ant if the witness were testifying at the trial.”

3 (b) The analysis of such chapter 223 is amended by  
4 adding at the end thereof the following new item:

“3501. Depositions.”

5 TITLE VI—PROTECTED FACILITIES FOR HOUS-  
6 ING GOVERNMENT WITNESSES

7 SEC. 601. The Attorney General of the United States  
8 is authorized to rent, purchase, or construct such facilities as  
9 are necessary to provide secure and safe housing for Govern-  
10 ment witnesses, potential Government witnesses, and the  
11 families of Government witnesses and potential witnesses  
12 in legal proceedings, or in Government investigations which  
13 might lead to legal proceedings, against any person alleged  
14 to have participated in an organized criminal activity. The  
15 Attorney General may take whatever action he deems neces-  
16 sary to assure the security of such facilities and the persons  
17 residing therein.

18 SEC. 602. The Attorney General may offer the use of  
19 such facilities to any Government witness, potential Govern-  
20 ment or family of any Government witness or potential  
21 Government witness in legal proceedings, or in Government  
22 investigations which might lead to legal proceedings, against  
23 any person alleged to have participated in an organized  
24 criminal activity when, in the judgment of the Attorney



1 General, testimony from, or a willingness to testify by, such  
2 a witness would place his life or person, or the life or person  
3 of a member of his family or household, in jeopardy through  
4 illegal efforts to prevent him from testifying or punish him  
5 for testifying. Any person availing himself of an offer by the  
6 Attorney General to use such facilities may continue to use  
7 such facilities for as long as the Attorney General determines  
8 the jeopardy to his life or person continues.

9 SEC. 603. As used in this title, the term "Government"  
10 means either the Federal or State government or any politi-  
11 cal subdivision or any department, agency, or instrumentality  
12 thereof.

13 SEC. 604. For the purposes of carrying out the provisions  
14 of this title, there is hereby authorized to be appropriated  
15 \$1,000,000 for the fiscal year ending June 30, 1969.

16 TITLE VII—DECLARATIONS OF CO-  
17 CONSPIRATORS

18 SEC. 701. (a) Chapter 223, title 18, United States  
19 Code, is amended by adding at the end thereof the following  
20 new section:

21 **"§ 3502. Admissions of coconspirators**

22 "In a criminal action in which it is alleged that two or  
23 more defendants participated as coconspirators in the com-  
24 mission of a criminal offense, evidence of an extrajudicial

1 declaration made by one such defendant may be received in  
 2 evidence against any other such defendant if the court deter-  
 3 mines that (1) the declaration was made by the declarant  
 4 during his participation in the conspiracy, (2) there are in  
 5 existence facts and circumstances from which its trustworthi-  
 6 ness may be inferred, (3) the declaration relates to the  
 7 existence or execution of the conspiracy, and (4) the decla-  
 8 ration was made during the time in which such other de-  
 9 fendant participated in the conspiracy.”.

10 (b) The section analysis of chapter 223, title 18, United  
 11 States Code, is amended by adding at the end thereof the fol-  
 12 lowing new item:

“3502. Admissions of coconspirators.”.

# 13 TITLE VIII—SPECIAL OFFENDER SENTENCING

14 SEC. 801. (a) Chapter 227 of title 18, United States  
 15 Code, is amended by adding at the end thereof the following  
 16 new sections:

## 17 “§ 3575. Increased punishment for habitual offenders

18 “(a) Whenever a United States attorney charged with  
 19 the prosecution of any person over the age of twenty-one  
 20 years in a court of the United States for an alleged offense  
 21 punishable as a felony has reason to believe that on two or  
 22 more previous occasions such person has been convicted of  
 23 a felony, and because of the dangerousness of such person  
 24 that a period of confined convictional treatment or custody

1 longer than that provided for the offense for which he is  
2 charged is required for the protection of the public, there  
3 shall be appended to the indictment returned against such  
4 person for such alleged offense a notice (1) specifying that  
5 such person is an habitual offender who upon conviction for  
6 such offense is subject to the imposition of a sentence under  
7 subsection (b) of this section, and (2) setting out with  
8 particularity each previous occasion on which such person  
9 is alleged to have been convicted of a felony. In no case,  
10 however, shall the fact that the accused is charged with  
11 being a habitual offender be an issue upon the trial of the  
12 felony charge and shall not in any manner be disclosed to  
13 the jury.

14 “(b) If, in the trial of such person upon that indict-  
15 ment, he is convicted of any offense described in that indict-  
16 ment, the court shall, before sentence is imposed, hold a hear-  
17 ing before the court alone to determine whether such person  
18 on two or more previous occasions has been convicted of a  
19 felony. The court shall fix a time for the hearing and notice  
20 thereof shall be given to such person at least three days prior  
21 thereto. At the hearing, if the court shall find from the evi-  
22 dence submitted during the trial or hearing, or on the basis  
23 of the presentence report, that the accused on two or more  
24 previous occasions has been convicted of a felony (other

1 than a conviction of a felony pursuant to the indictment upon  
2 which such hearing is conducted) and sentences have been  
3 imposed therefor by any Federal or State court, and because  
4 of the dangerousness of such accused that a period of con-  
5 fined convictional treatment or custody longer than that pre-  
6 scribed for the offense of which he was convicted pursuant  
7 to such indictment is required for the protection of the pub-  
8 lic, the court shall sentence such person so convicted as a  
9 habitual offender for a term of not to exceed thirty years.  
10 If the court does not so find, it shall sentence such person  
11 in accordance with the law prescribing penalties for the  
12 offense for which he was convicted. At the hearing of any  
13 person charged with being an habitual offender, a duly  
14 authenticated copy of the former judgment and commitment,  
15 from any court in which such judgment and commitment was  
16 had, for any of such felonies formerly committed by the per-  
17 son so charged, shall be competent and prima facie evidence  
18 of such former judgment and commitment.

19 “(c) This section shall not prevent the imposition and  
20 execution of a sentence of death upon any person convicted  
21 of an offense punishable by death. In determining under this  
22 section whether any person has been convicted of a felony  
23 on two or more previous occasions, the conviction of such  
24 person of two or more felonies charged in separate counts  
25 of a single indictment or information, or in two or more

1 indictments or informations consolidated for trial in a single  
2 criminal action, shall be deemed to be only one conviction  
3 of a felony.

4 “(d) Any person sentenced as a habitual offender  
5 under this section shall not be eligible for the suspension of  
6 that sentence, and shall not be eligible for parole or for the  
7 remission or reduction of that sentence for any cause, until  
8 he has been imprisoned under that sentence for at least two-  
9 thirds of the term so imposed.

10 “(e) As used in this section, the term ‘convicted of a  
11 felony’, when used with regard to any person, means a con-  
12 viction of such person in a court of competent jurisdiction, for  
13 an offense punishable as a felony under the laws of the  
14 United States, any State, or the District of Columbia, upon  
15 which such person was sentenced to imprisonment and served  
16 such sentence in whole or in part, and for which he was not  
17 thereafter pardoned for the reason that he was innocent, or  
18 his conviction set aside in any postconviction proceeding.

19 “(f) Notwithstanding any other provision of this sec-  
20 tion, in any case in which the offense for which any person  
21 is convicted pursuant to any such indictment referred to in  
22 subsection (a) of this section is an offense with respect to  
23 which a mandatory minimum penalty is prescribed by law,  
24 the court, in sentencing such person as a habitual offender  
25 under this section, shall not sentence such person for a term

1 less than the mandatory minimum so prescribed for such  
2 offense.

3 **“§ 3576. Increased punishment for professional offenders**  
4 **or organized crime offenders**

5 “(a) Whenever a United States attorney charged with  
6 the prosecution of any person over the age of twenty-one  
7 years in a court of the United States for an alleged offense  
8 punishable as a felony has reason to believe that such per-  
9 son is a professional offender, or an organized crime offender,  
10 and because of the dangerousness of such person that a period  
11 of confined convictional treatment or custody longer than  
12 that provided for the offense for which he is charged is re-  
13 quired for the protection of the public, there shall be ap-  
14 pended to the indictment returned against such person for  
15 such alleged offense a notice (1) specifying that such person  
16 is a professional offender or an organized crime offender, as  
17 the case may be, who upon conviction for such offense is  
18 subject to the imposition of a sentence under subsection (b)  
19 of this section, and (2) setting out with particularity the  
20 reasons why such attorney believes such person to be a  
21 professional offender or an organized crime offender. In no  
22 case, however, shall the fact that the accused is charged  
23 with being a professional offender or an organized crime  
24 offender be an issue upon the trial of the felony charge and  
25 shall not in any manner be disclosed to the jury.

1       “(b) If, in the trial of such person upon that indictment,  
2 he is convicted of any offense described in that indictment,  
3 the court shall, before sentence is imposed, hold a hearing  
4 before the court alone to determine whether such person is  
5 a professional offender or an organized crime offender. The  
6 court shall fix a time for the hearing and notice thereof shall  
7 be given to such person at least three days prior thereto.  
8 At the hearing, if the court shall find from the evidence  
9 submitted during the trial or hearing, or on the basis of  
10 the presentence report, that the accused is a professional  
11 offender, or an organized crime offender, and because of the  
12 dangerousness of such accused that a period of confined con-  
13 victional treatment or custody longer than that provided for  
14 the offense of which he was convicted pursuant to such indict-  
15 ment is required for the protection of the public, the court  
16 shall sentence such person, so convicted, as a professional  
17 offender or as an organized crime offender, as the case may  
18 be, for a term of not to exceed thirty years. If the court  
19 does not so find, it shall sentence such person in accordance  
20 with the law prescribing penalties for the offense for which  
21 he was convicted.

22       “(c) This section shall not prevent the imposition and  
23 execution of a sentence of death upon any person convicted  
24 of an offense punishable by death.

25       “(d) Any person sentenced as a professional offender

1 or an organized crime offender under this section shall not be  
2 eligible for the suspension of that sentence, and shall not  
3 be eligible for parole or for the remission or reduction of  
4 that sentence for any cause, until he has been imprisoned  
5 under that sentence for at least two-thirds of the term so  
6 imposed.

7 “(e) Notwithstanding any other provision of this sec-  
8 tion, in any case in which the offense for which any person  
9 is convicted pursuant to any such indictment referred to in  
10 subsection (a) of this section is an offense with respect to  
11 which a mandatory minimum penalty is prescribed by law,  
12 the court, in sentencing such person as a professional offender  
13 or an organized crime offender under this section, shall not  
14 sentence such person for a term less than the mandatory  
15 minimum so prescribed for such offense.

16 “(f) As used in this section, the term—

17 “(1) ‘professional offender’ means any person who  
18 has knowingly devoted himself to criminal activity as a  
19 major source of livelihood, or who has substantial income  
20 or resources not explained to be derived from a source  
21 other than criminal activity; and

22 “(2) ‘organized crime offender’ means a person  
23 who, with intent that conduct constituting a series of  
24 crimes be performed, plans, counsels, promotes, finances,  
25 organizes, manages, advises, supervises, directs, or con-



1       ducts a conspiratorial relationship, composed of five or  
2       more conspirators, involving a structured division of  
3       labor, and having as its objective the engaging in or  
4       causing of the performance of such conduct as a part of  
5       a continuing course of activity. A person shall not be  
6       considered an organized crime offender within the mean-  
7       ing of this definition unless conduct constituting more  
8       than one crime as part of a continuing course of activity  
9       is engaged in or caused by one or more of the conspira-  
10      tors to effect the objective of the relationship.

11   **“§ 3577. Review of sentence**

12       “With respect to any sentence imposed on any person  
13      pursuant to section 3575 or 3576 by reason of such person  
14      being determined to be a habitual criminal, a professional  
15      offender, or an organized crime offender, a review may be  
16      taken by and on behalf of such person or the United States  
17      to a court of appeals. The review in all such cases shall be  
18      taken within thirty days after the sentence has been im-  
19      posed and shall be diligently prosecuted. The court of ap-  
20      peals conducting any such review shall, after considering  
21      the entire record, have the right, subject to the provisions  
22      of sections 3575 (f) and 3576 (e) of this title, to increase  
23      or decrease such sentence. No such sentence so imposed  
24      pursuant to any such section shall be considered final until  
25      after the final disposition of any such review taken with

4        “In sentencing any person convicted of a crime or offense  
5    in any court of the United States, a judge may, in order to  
6    obtain the fullest information on the background and char-  
7    acter of any such person for the purpose of imposing an  
8    appropriate sentence, receive and consider any and all evi-  
9    dence and evaluate its relevancy to the matters involved  
10   without regard to the manner in which such evidence was  
11   obtained.”

“3578. Use of evidence in connection with sentencing.”

SEC. 901. If any provision of or any amendment made by this Act or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

91ST CONGRESS  
1ST SESSION

**S. 30**

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**A BILL**

Relating to the control of organized crime in  
the United States.

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By Mr. McCLELLAN, Mr. ERVIN, and  
Mr. HRUSKA

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JANUARY 15 (legislative day, JANUARY 10), 1969  
Read twice and referred to the Committee on the  
Judiciary

91ST CONGRESS  
1ST SESSION

# S. 30

[Report No. 91-617]

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## IN THE SENATE OF THE UNITED STATES

JANUARY 15 (legislative day, JANUARY 10), 1969

Mr. McCLELLAN (for himself, Mr. ERVIN, and Mr. HRUSKA) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

DECEMBER 18 (legislative day, DECEMBER 16), 1969

Reported by Mr. McCLELLAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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## A BILL

Relating to the control of organized crime in the United States.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That this Act shall be known as the "Organized Crime Con-  
4       trol Act of 1969".

### 5       CONGRESSIONAL FINDINGS AND STATEMENT OF POLICY

6       The Congress finds ~~(1)~~ that organized crime in the  
7       United States is a highly sophisticated, diversified, and ubiq-  
8       uitous illegal business which annually drains billions of  
9       dollars from America's economy and operates by an insidious  
10      reign of terror; ~~(2)~~ that organized crime derives its power  
11      through money obtained from such illegal activities as gam-

1 bling, loan sharking, narcotics, and other forms of vice; and  
2 that this money and power, in turn, is being increasingly  
3 used to infiltrate legitimate businesses and labor unions; ~~(3)~~  
4 that the danger of organized crime activities in the United  
5 States threatens the internal security, peace, and general  
6 welfare of the Nation and its citizens; and ~~(4)~~ that organized  
7 crime continues to grow despite efforts to deal with it, be-  
8 cause of defects in the evidence-gathering process that make  
9 it difficult to develop legally admissible evidence so that  
10 criminal and other sanctions might be brought to bear on  
11 the unlawful activities of organized crime.

12 It is, therefore, the declared policy of the Congress to  
13 seek the eradication of organized crime in the United States  
14 by the enactment of remedial legislation and by the author-  
15 ization and appropriation of funds where necessary to carry  
16 out such legislation. The Congress, therefore, believes that  
17 the various legal tools which are available to the Government  
18 in the evidence gathering process must be strengthened and  
19 vitalized.

## 20 TITLE I—GRAND JURY

21 SEC. 101. Section 3321, title 18, United States Code, is  
22 amended by adding at the end thereof the following new sen-  
23 tence: "Members of a grand jury shall be selected in accord-  
24 ance with the provisions of chapter 121."

1       SEC. 102. ~~(a)~~ Section 3322, title 18, United States  
2 Code, is amended to read as follows:

3       **“§ 3322. Summoning and term**

4       ~~“(a)~~ Each district court shall order a grand jury to be  
5 summoned at least once in each period of eighteen months. A  
6 grand jury shall serve for a term of eighteen months unless  
7 an order for its discharge is entered earlier by the court upon  
8 a determination of the grand jury by majority vote that its  
9 business has been completed. If, at the end of such term or  
10 any extension thereof, a grand jury determines by majority  
11 vote that its business has not been completed, the court shall  
12 enter an order extending such term for an additional period  
13 of six months. No term of a grand jury so extended shall  
14 exceed ~~thirty-six~~ months.

15       ~~“(b)~~ If a district court within any judicial circuit fails  
16 to extend the term of a grand jury upon application made by  
17 the grand jury pursuant to subsection ~~(a)~~, or enters an order  
18 for the discharge of a grand jury before it determines that it  
19 has completed its business, the grand jury, upon the affirma-  
20 tive vote of a majority of its members, may apply to the chief  
21 judge of the circuit for an order for the continuance of the  
22 term of the grand jury. Upon the making of any such appli-  
23 cation by a grand jury, the term thereof shall continue until  
24 the entry upon such application by the chief judge of the

1 circuit of an appropriate order in conformity with the pro-  
 2 visions of subsection (a). No term of a grand jury shall  
 3 extend for a period longer than thirty-six months by reason  
 4 of any such continuance.”

5 (b) The item relating to section 3322, title 18, United  
 6 States Code, contained in the section analysis of chapter  
 7 215 of that title is amended to read as follows:

“3322. Summoning and term.”

8 SEC. 103. (a) Section 3324, title 18, United States  
 9 Code, is amended to read as follows:

10 **“§ 3324. Powers and duties**

11 “(a) Each grand jury when impaneled shall elect by  
 12 majority vote a foreman and a deputy foreman from among  
 13 its members.

14 “(b) It shall be the duty of each grand jury impaneled  
 15 within any judicial district to inquire into each offense  
 16 against the criminal laws of the United States alleged to  
 17 have been committed within that district which is brought  
 18 to the attention of the grand jury by the court or by any  
 19 person.

20 “(c) No person shall be deprived of opportunity to  
 21 communicate to the foreman of a grand jury any informa-  
 22 tion concerning any such alleged offense or instance of  
 23 misconduct.

24 “(d) Whenever a grand jury impaneled within any

1 judicial district determines by majority vote that the volume  
2 of business of the grand jury exceeds the capacity of the  
3 grand jury to discharge its obligations, the grand jury may  
4 apply to the district court to impanel an additional grand  
5 jury for that district. Upon any such application and a  
6 showing of need, such court shall order an additional grand  
7 jury to be impaneled. If the district court declines to hear  
8 any such application, or to grant any such application after  
9 hearing, the grand jury may apply to the chief judge of the  
10 circuit for an order impaneling an additional grand jury  
11 for that district. Such chief judge shall hear and determine  
12 such application at the earliest practicable time, and shall  
13 have jurisdiction to enter thereon such orders as may be  
14 required to provide for the impaneling of an additional grand  
15 jury within the judicial district for which such application  
16 was made.

17       “(c) Whenever a grand jury determines by majority  
18 vote that any attorney or investigative officer or agent  
19 appearing on behalf of the United States before the grand  
20 jury for the presentation of evidence with respect to any  
21 matter has not performed or is not performing his duties  
22 diligently and effectively, the grand jury may transmit to  
23 the Attorney General in writing a statement of the reasons  
24 for such determination, together with a request for the  
25 designation by the Attorney General of another attorney



1 or investigative officer or agent to appear before the grand  
 2 jury for that purpose. Upon receipt of any such request,  
 3 the Attorney General shall promptly cause inquiry to be  
 4 made as to the merits of the allegations made by the grand  
 5 jury, and take appropriate action to provide for the United  
 6 States prompt and effective representation before the grand  
 7 jury with respect to that matter.”

8 (b) The item relating to section 3324, title 18, United  
 9 States Code, contained in the section analysis of chapter 215  
 10 of that title is amended to read as follows:

“3324. Powers and duties.”

11 SEC. 104. (a) Chapter 215, title 18, United States  
 12 Code, is amended by adding at the end thereof the following  
 13 new section:

14 “§ 3330. Reports

15 “(a) A grand jury impaneled by any district court,  
 16 with the concurrence of a majority of its members, may  
 17 submit to the court a report—

18 “(1) concerning noncriminal misconduct, non-  
 19 feasance, or neglect in office by a public officer or  
 20 employee as the basis for a recommendation of removal  
 21 or disciplinary action; or

22 “(2) stating that after investigation of a public  
 23 officer or employee it finds no misconduct, nonfeasance,  
 24 or neglect in office by him, provided that such public

1 officer or employee has requested the submission of such  
2 report; or

3 ~~“(3)~~ proposing recommendations for legislative,  
4 executive, or administrative action in the public interest  
5 based upon stated findings.

6 ~~“(b)~~ The court to which such report is submitted shall  
7 examine it and the minutes of the grand jury and, except as  
8 otherwise provided in subsection ~~(g)~~ of this section, shall  
9 make an order accepting and filing such report as a public  
10 record only if the court is satisfied that it complies with the  
11 provisions of subsection ~~(a)~~ of this section and that—

12 ~~“(1)~~ the report is based upon facts revealed in the  
13 course of an investigation authorized by section 3324  
14 ~~(b)~~ and is supported by the preponderance of the evi-  
15 dence; and

16 ~~“(2)~~ when the report is submitted pursuant to  
17 paragraph ~~(a)(1)~~ of this section, that each person  
18 named therein was afforded an opportunity to testify  
19 before the grand jury prior to the filing of such report,  
20 and when the report is submitted pursuant to paragraph  
21 ~~(a)(2)~~ or ~~(a)(3)~~ of this section, it is not critical of an  
22 identified or identifiable person.

23 ~~“(c)(1)~~ An order accepting a report pursuant to para-  
24 graph ~~(a)(1)~~ of this section and the report shall be sealed  
25 by the court and shall not be filed as a public record, sub-

1   ject to subpoena or otherwise made public ~~(A)~~ until at least  
2   thirty-one days after a copy of the order and report are  
3   served upon each public officer or employee named therein  
4   or ~~(B)~~ if an appeal is taken, until the affirmance of the  
5   order accepting the report, reversal of the order sealing the  
6   report or dismissal of the appeal of the named public officer  
7   or employee by the appellate court, whichever occurs later.

8       ~~“(2)~~ Such public officer or employee may file with the  
9   clerk an answer to such a report, not later than twenty days  
10   after service of the order and report upon him. Such an  
11   answer shall plainly and concisely state the facts and law  
12   constituting the defense of the public officer or employee to  
13   the charges in said report, and, except, those parts thereof  
14   which the court may determine to be scandalously or preju-  
15   diciously and unnecessarily inserted therein, shall become  
16   an appendix to the report.

17       ~~“(3)~~ Upon the expiration of the time set forth in para-  
18   graph ~~(c)~~(1), the United States attorney shall deliver a  
19   true copy of such report, and the appendix if any, for appro-  
20   priate action, to each public officer or body having removal  
21   or disciplinary authority over each public officer or employee  
22   named therein.

23       ~~“(d)~~ Upon the submission of a report pursuant to sub-  
24   section ~~(a)~~, if the court finds that the filing of such report  
25   as a public record may prejudice fair consideration of a

1 pending criminal matter, it shall order such report sealed  
2 and such report shall not be subject to subpoena or public  
3 inspection during the pendency of such criminal matter,  
4 except upon order of the court.

5 “(e) Whenever the court to which a report is sub-  
6 mitted pursuant to paragraph (a)-(1) is not satisfied that  
7 the report complies with the provisions of subsection (b), it  
8 may direct that additional testimony be taken before the  
9 same grand jury, or it shall make an order sealing such  
10 report and it shall not be filed as a public record, subject to  
11 subpoena or otherwise made public.

12 “(f) Within thirty days after a copy of an order of a  
13 district court of any judicial circuit and a report is served  
14 upon a public officer or employee under paragraph (e)-(1),  
15 such public officer may file with the circuit court for that  
16 of any such appeal, the circuit court shall have jurisdiction  
17 to hear and determine such appeal, and to enter therein such  
18 orders (including such orders for the hearing of matter  
19 relating to the appeal pending the determination thereof)-  
20 as the court may determine to be proper.

21 “(g) As used in this section, the term ‘public officer  
22 or employee’ means any officer or employee of the United  
23 States, or any State or any political subdivision, or any de-  
24 partment, agency, or instrumentality thereof.”

1       (h) The section analysis of chapter 215, title 18, United  
2 States Code, is amended by adding at the end thereof the  
3 following new item:

“2220. Reports.”

4       SEC. 105. The amendments made by this title shall take  
5 effect on the first day of the seventh month which begins  
6 after the date of enactment of this Act.

## 7                               TITLE II—IMMUNITY

8       SEC. 201. Chapter 1 of title 18, United States Code, is  
9 amended by adding at the end thereof the following new  
10 section:

11   **“§ 16. Compelling of testimony and other evidence with**  
12       **respect to Federal offenses**

13       “Whoever in the judgment of a United States attorney  
14 the testimony of any witness, or the production of books,  
15 papers, or other evidence by any witness, in any case or  
16 proceeding before any grand jury or court of the United  
17 States involving a violation of any law of the United States,  
18 or any conspiracy to violate any such law, is necessary to  
19 the public interest, the United States attorney, upon the  
20 approval of the Attorney General or an Assistant Attorney  
21 General designated by the Attorney General, shall make ap-  
22 plication to such court that the witness shall be instructed to  
23 testify or produce evidence, subject to the provisions of this  
24 section. Upon order of the court such witness shall not be

1 excused from testifying or from producing books, papers, or  
 2 other evidence on the ground that the testimony or evidence  
 3 required of him may tend to incriminate him or subject him  
 4 to a penalty or forfeiture. In no case, however, shall any  
 5 such testimony or evidence so compelled as a result of such  
 6 court order, or any evidence, knowledge, or information the  
 7 source of which is attributable to any such testimony or  
 8 evidence so compelled, be used as evidence or in any other  
 9 manner against him in, or in connection with, any proceed-  
 10 ing, case, or matter before any grand jury, court, or other  
 11 authority of any State or of the United States, other than in  
 12 connection with a prosecution for perjury or contempt com-  
 13 mitted while giving testimony or producing evidence under  
 14 compulsion as provided in this section."

15 SEC. 202. The analysis of chapter 1 of title 18, United  
 16 States Code, is amended by adding at the end thereof the  
 17 following new item:

"16. Compelling of testimony and other evidence with respect to Federal  
 offenses."

### 18 ~~TITLE III—RECALCITRANT WITNESSES~~

19 SEC. 301. ~~(a)~~ Chapter 119, title 28, United States  
 20 Code, is amended by adding at the end thereof the following  
 21 new section:

#### 22 "§ 1826. Recalcitrant witnesses

23 "(a) Whenever a witness attending in any court or  
 24 appearing before any grand jury of the United States fails

1 or refuses without just cause to comply with an order of  
 2 the court to give testimony in response to a question or with  
 3 respect to any matter, the court, upon such failure or refusal  
 4 or when such failure or refusal is duly brought to its atten-  
 5 tion, may summarily order his confinement at a suitable place  
 6 until such time as the witness is willing to give such testi-  
 7 mony.

8       “(b) No person confined pursuant to subsection (a)  
 9 shall be admitted to bail pending the determination of an  
 10 appeal taken by him from the order for his confinement.”.

11       “(b) The section analysis of chapter 119, title 28, United  
 12 States Code, is amended by adding at the end thereof the  
 13 following new item:

“1826. Recalcitrant witnesses.”.

#### 14                   **TITLE IV—FALSE STATEMENTS**

15       **SEC. 401.** Chapter 79 of title 18, United States Code, is  
 16 amended by the addition of the following section:

#### 17       **“§ 1623. False statement before grand jury or court**

18       “(a) Whoever, having taken an oath in any trial,  
 19 hearing, or proceeding before any court or grand jury, in  
 20 which a law of the United States authorizes the oath,  
 21 knowingly falsifies fact, or makes any false, fictitious, or  
 22 fraudulent statement or representation, or makes or uses  
 23 any false writing or document knowing the same to contain

1 any false, fictitious, or fraudulent statement or entry, shall  
2 be fined not more than \$10,000 or imprisoned not more  
3 than five years, or both.

4 “(b) Whoever procures or instigates another to commit  
5 any of the acts prescribed herein shall be fined not more  
6 than \$10,000 or imprisoned not more than five years, or  
7 both.

8 “(c) This section is applicable whether the statement or  
9 subscription was made within or without the United States.

10 “(d) An indictment or information for violation of this  
11 section alleging that the offender, under oath or affirmation,  
12 has made contradictory statements or testimony material to  
13 the issue or point in question in any trial, hearing, or pro-  
14 ceeding before any court or grand jury, where such oath or  
15 affirmation is authorized by the law of the United States,  
16 need not specify which statement or testimony is false. In  
17 any prosecution under this section, the falsity of the testi-  
18 mony or statement set forth in the indictment or information  
19 shall be presumptively established by proof that the defend-  
20 ant made manifestly contradictory statements or testimony  
21 material to the issue or point in question, in any trial, hear-  
22 ing, or proceeding before any grand jury while under oath  
23 authorized by the law of the United States. Where the con-  
24 tradictory statements are made in the same continuous trial,  
25 an admission by the offender in that same continuous trial



1 of the falsity of a contradictory statement shall bar prose-  
 2 cution therefor under any provisions of this section."

3 SEC. 402. The analysis of chapter 9 of title 18, United  
 4 States Code, is amended by adding the following new item  
 5 at the end thereof:

"1624. False statement before grand jury or court."

## 6 TITLE V—DEPOSITIONS

7 SEC. 501. ~~(a)~~ Chapter 223 of title 18, United States  
 8 Code, is amended by adding at the end thereof the following  
 9 new section:

### 10 "§ 3501. Depositions

11 "~~(a)~~ Whenever it is in the interest of justice that that  
 12 testimony of a prospective government witness be taken and  
 13 preserved, the court, at any time after the filing of an  
 14 indictment or information may upon motion and notice to  
 15 the defendant, order that his testimony be taken by deposi-  
 16 tion and that any designated books, papers, documents or  
 17 tangible objects, not privileged, be produced at the same  
 18 time and place. If a witness is committed for failure to give  
 19 bail to appear to testify at a trial or hearing, the court on  
 20 written motion of the witness and upon notice of the parties  
 21 may direct that his deposition be taken. After the deposition  
 22 has been subscribed the court may discharge the witness.

23 "~~(b)~~ A deposition shall be taken and filed in the man-  
 24 ner provided in civil actions. The court may direct that a

1 deposition be taken on written interrogatories in the manner  
2 provided in civil actions.

3 “(c) At the trial or upon any hearing, a part or all of a  
4 deposition, so far as otherwise admissible under the rules of  
5 evidence, may be used if the court is satisfied that the appear-  
6 ance of the witness cannot be obtained because the witness  
7 is dead, or is out of the United States, or is unable to attend  
8 or testify because of sickness or infirmity, or because the  
9 Government has been unable to procure the attendance of  
10 the witness by subpoena. Any deposition may also be used  
11 by any party for the purpose of contradicting or impeaching  
12 the testimony of the deponent as a witness. Both the de-  
13 fendant and his attorney shall be given reasonable advance  
14 notice of the time and place set for the examination. The  
15 officer having custody of a defendant shall be notified of the  
16 time and place set for the examination, and shall produce  
17 him at the examination and keep him in the presence of the  
18 witness during the examination. A defendant not in custody  
19 shall have the right to be present at the examination, but his  
20 failure to appear after notice and tender of expenses shall  
21 constitute a waiver of that right. The Government shall pay  
22 to the defendant’s attorney and to a defendant not in custody  
23 expenses of travel and subsistence for attendance at the  
24 examination. The Government shall make available to the  
25 defendant for his examination and use at the taking of the

1 deposition any statement of the witness being deposed which  
 2 is in the possession of the Government and which the Gov-  
 3 ernment would be required to make available to the defend-  
 4 ant if the witness were testifying at the trial."

5 (b) The analysis of such chapter 223 is amended by  
 6 adding at the end thereof the following new item:

"3501. Depositions."

7 **TITLE VI—PROTECTED FACILITIES FOR HOUS-**  
 8 **ING GOVERNMENT WITNESSES**

9 **SEC. 601.** The Attorney General of the United States  
 10 is authorized to rent, purchase, or construct such facilities as  
 11 are necessary to provide secure and safe housing for Govern-  
 12 ment witnesses, potential Government witnesses, and the  
 13 families of Government witnesses and potential witnesses  
 14 in legal proceedings, or in Government investigations which  
 15 might lead to legal proceedings, against any person alleged  
 16 to have participated in an organized criminal activity. The  
 17 Attorney General may take whatever action he deems neces-  
 18 sary to assure the security of such facilities and the persons  
 19 residing therein.

20 **SEC. 602.** The Attorney General may offer the use of  
 21 such facilities to any Government witness, potential Govern-  
 22 ment or family of any Government witness or potential  
 23 Government witness in legal proceedings, or in Government  
 24 investigations which might lead to legal proceedings, against

1 any person alleged to have participated in an organized  
 2 criminal activity when, in the judgment of the Attorney  
 3 General, testimony from, or a willingness to testify by, such  
 4 a witness would place his life or person, or the life or person  
 5 of a member of his family or household, in jeopardy through  
 6 illegal efforts to prevent him from testifying or punish him  
 7 for testifying. Any person availing himself of an offer by the  
 8 Attorney General to use such facilities may continue to use  
 9 such facilities for as long as the Attorney General determines  
 10 the jeopardy to his life or person continues.

11 SEC. 603. As used in this title, the term "Government"  
 12 means either the Federal or State government or any politi-  
 13 cal subdivision or any department, agency, or instrumentality  
 14 thereof.

15 SEC. 604. For the purposes of carrying out the provisions  
 16 of this title, there is hereby authorized to be appropriated  
 17 \$1,000,000 for the fiscal year ending June 30, 1969.

## 18 TITLE VII DECLARATIONS OF CO- 19 CONSPIRATORS

20 SEC. 701. (a) Chapter 223, title 18, United States  
 21 Code, is amended by adding at the end thereof the following  
 22 new section:

### 23 "§ 3502. Admissions of coconspirators

24 "In a criminal action in which it is alleged that two or

1 more defendants participated as coconspirators in the com-  
 2 mission of a criminal offense; evidence of an extrajudicial  
 3 declaration made by one such defendant may be received in  
 4 evidence against any other such defendant if the court deter-  
 5 mines that ~~(1)~~ the declaration was made by the declarant  
 6 during his participation in the conspiracy; ~~(2)~~ there are in  
 7 existence facts and circumstances from which its trustworthi-  
 8 ness may be inferred; ~~(3)~~ the declaration relates to the  
 9 existence or execution of the conspiracy; and ~~(4)~~ the decla-  
 10 ration was made during the time in which such other de-  
 11 fendant participated in the conspiracy.”.

12 ~~(b)~~ The section analysis of chapter 223, title 18, United  
 13 States Code, is amended by adding at the end thereof the fol-  
 14 lowing new item:

“3502. Admissions of coconspirators.”.

## 15 ~~TITLE VIII—SPECIAL OFFENDER SENTENCING~~

16 SEC. 801. ~~(a)~~ Chapter 227 of title 18, United States  
 17 Code, is amended by adding at the end thereof the following  
 18 new sections:

### 19 “§ 3575. Increased punishment for habitual offenders

20 “~~(a)~~ Whenever a United States attorney charged with  
 21 the prosecution of any person over the age of twenty-one  
 22 years in a court of the United States for an alleged offense  
 23 punishable as a felony has reason to believe that on two or  
 24 more previous occasions such person has been convicted of

1 a felony, and because of the dangerousness of such person  
2 that a period of confined convictional treatment or custody  
3 longer than that provided for the offense for which he is  
4 charged is required for the protection of the public, there  
5 shall be appended to the indictment returned against such  
6 person for such alleged offense a notice (1) specifying that  
7 such person is an habitual offender who upon conviction for  
8 such offense is subject to the imposition of a sentence under  
9 subsection (b) of this section, and (2) setting out with  
10 particularity each previous occasion on which such person  
11 is alleged to have been convicted of a felony. In no case,  
12 however, shall the fact that the accused is charged with  
13 being a habitual offender be an issue upon the trial of the  
14 felony charge and shall not in any manner be disclosed to  
15 the jury.

16 “(b) If, in the trial of such person upon that indict-  
17 ment, he is convicted of any offense described in that indict-  
18 ment, the court shall, before sentence is imposed, hold a hear-  
19 ing before the court alone to determine whether such person  
20 on two or more previous occasions has been convicted of a  
21 felony. The court shall fix a time for the hearing and notice  
22 thereof shall be given to such person at least three days prior  
23 thereto. At the hearing, if the court shall find from the evi-  
24 dence submitted during the trial or hearing, or on the basis  
25 of the presentence report, that the accused on two or more

1 previous occasions has been convicted of a felony (other  
2 than a conviction of a felony pursuant to the indictment upon  
3 which such hearing is conducted) and sentences have been  
4 imposed therefor by any Federal or State court, and because  
5 of the dangerousness of such accused that a period of con-  
6 fined convictional treatment or custody longer than that pre-  
7 scribed for the offense of which he was convicted pursuant  
8 to such indictment is required for the protection of the pub-  
9 lic, the court shall sentence such person so convicted as a  
10 habitual offender for a term of not to exceed thirty years.  
11 If the court does not so find, it shall sentence such person  
12 in accordance with the law prescribing penalties for the  
13 offense for which he was convicted. At the hearing of any  
14 person charged with being an habitual offender, a duly  
15 authenticated copy of the former judgment and commitment,  
16 from any court in which such judgment and commitment was  
17 had, for any of such felonies formerly committed by the per-  
18 son so charged, shall be competent and prima facie evidence  
19 of such former judgment and commitment.

20 “(e) This section shall not prevent the imposition and  
21 execution of a sentence of death upon any person convicted  
22 of an offense punishable by death. In determining under this  
23 section whether any person has been convicted of a felony  
24 on two or more previous occasions, the conviction of such  
25 person of two or more felonies charged in separate counts

1 of a single indictment or information, or in two or more  
2 indictments or informations consolidated for trial in a single  
3 criminal action, shall be deemed to be only one conviction  
4 of a felony.

5 “(d) Any person sentenced as a habitual offender  
6 under this section shall not be eligible for the suspension of  
7 that sentence, and shall not be eligible for parole or for the  
8 remission or reduction of that sentence for any cause, until  
9 he has been imprisoned under that sentence for at least two-  
10 thirds of the term so imposed.

11 “(e) As used in this section, the term ‘convicted of a  
12 felony’, when used with regard to any person, means a con-  
13 viction of such person in a court of competent jurisdiction, for  
14 an offense punishable as a felony under the laws of the  
15 United States, any State, or the District of Columbia, upon  
16 which such person was sentenced to imprisonment and served  
17 such sentence in whole or in part, and for which he was not  
18 thereafter pardoned for the reason that he was innocent, or  
19 his conviction set aside in any postconviction proceeding.

20 “(f) Notwithstanding any other provision of this sec-  
21 tion, in any case in which the offense for which any person  
22 is convicted pursuant to any such indictment referred to in  
23 subsection (a) of this section is an offense with respect to  
24 which a mandatory minimum penalty is prescribed by law,  
25 the court, in sentencing such person as a habitual offender



1 under this section, shall not sentence such person for a term  
2 less than the mandatory minimum so prescribed for such  
3 offense.

4 **“§ 3576. Increased punishment for professional offenders**  
5 **or organized crime offenders**

6 ~~“(a)~~ Whenever a United States attorney charged with  
7 the prosecution of any person over the age of twenty-one  
8 years in a court of the United States for an alleged offense  
9 punishable as a felony has reason to believe that such per-  
10 son is a professional offender, or an organized crime offender,  
11 and because of the dangerousness of such person that a period  
12 of confined convictional treatment or custody longer than  
13 that provided for the offense for which he is charged is re-  
14 quired for the protection of the public, there shall be ap-  
15 pended to the indictment returned against such person for  
16 such alleged offense a notice ~~(1)~~ specifying that such person  
17 is a professional offender or an organized crime offender, as  
18 the case may be, who upon conviction for such offense is  
19 subject to the imposition of a sentence under subsection ~~(b)~~  
20 of the section, and ~~(2)~~ setting out with particularity the  
21 reasons why such attorney believes such person to be a  
22 professional offender or an organized crime offender. In no  
23 case, however, shall the fact that the accused is charged  
24 with being a professional offender or an organized crime

1 offender be an issue upon the trial of the felony charge and  
2 shall not in any manner be disclosed to the jury.

3       “(b) If, in the trial of such person upon that indictment,  
4 he is convicted of any offense described in that indictment,  
5 the court shall, before sentence is imposed, hold a hearing be-  
6 fore the court alone to determine whether such person is  
7 a professional offender or an organized crime offender. The  
8 court shall fix a time for the hearing and notice thereof shall  
9 be given to such person at least three days prior thereto.  
10 At the hearing, if the court shall find from the evidence  
11 submitted during the trial or hearing, or on the basis of  
12 the presentence report, that the accused is a professional  
13 offender, or an organized crime offender, and because of the  
14 dangerousness of such accused that a period of confined con-  
15 victional treatment or custody longer than that provided for  
16 the offense of which he was convicted pursuant to such indict-  
17 ment is required for the protection of the public, the court  
18 shall sentence such person, so convicted, as a professional  
19 offender or as an organized crime offender, as the case may  
20 be, for a term of not to exceed thirty years. If the court  
21 does not so find, it shall sentence such person in accordance  
22 with the law prescribing penalties for the offense for which  
23 he was convicted.

24       “(c) This section shall not prevent the imposition and

1 execution of a sentence of death upon any person convicted  
2 of an offense punishable by death.

3 “(d) Any person sentenced as a professional offender  
4 or an organized crime offender under this section shall not be  
5 eligible for the suspension of that sentence, and shall not  
6 be eligible for parole or for the remission or reduction of  
7 that sentence for any cause, until he has been imprisoned  
8 under that sentence for at least two-thirds of the term so  
9 imposed.

10 “(e) Notwithstanding any other provision of this sec-  
11 tion, in any case in which the offense for which any person  
12 is convicted pursuant to any such indictment referred to in  
13 subsection (a) of this section is an offense with respect to  
14 which a mandatory minimum penalty is prescribed by law,  
15 the court, in sentencing such person as a professional offender  
16 or an organized crime offender under this section, shall not  
17 sentence such person for a term less than the mandatory  
18 minimum so prescribed for such offense.

19 “(f) As used in this section, the term—

20 “(1) ‘professional offender’ means any person who  
21 has knowingly devoted himself to criminal activity as a  
22 major source of livelihood, or who has substantial income  
23 or resources not explained to be derived from a source  
24 other than criminal activity; and

25 “(2) ‘organized crime offender’ means a person

1       who, with intent that conduct constituting a series of  
2       crimes be performed, plans, counsels, promotes, finances,  
3       organizes, manages, advises, supervises, directs, or con-  
4       ducts a conspiratorial relationship, composed of five or  
5       more conspirators, involving a structured division of  
6       labor, and having as its objective the engaging in or  
7       causing of the performance of such conduct as a part of  
8       a continuing course of activity. A person shall not be  
9       considered an organized crime offender within the mean-  
10      ing of this definition unless conduct constituting more  
11      than one crime as part of a continuing course of activity  
12      is engaged in or caused by one or more of the conspira-  
13      tors to effect the objective of the relationship.

14   **“§ 3577. Review of sentence**

15       “With respect to any sentence imposed on any person  
16      pursuant to section 3575 or 3576 by reason of such person  
17      being determined to be a habitual criminal, a professional  
18      offender, or an organized crime offender, a review may be  
19      taken by and on behalf of such person or the United States  
20      to a court of appeals. The review in all such cases shall be  
21      taken within thirty days after the sentence has been im-  
22      posed and shall be diligently prosecuted. The court of ap-  
23      peals conducting any such review shall, after considering  
24      the entire record, have the right, subject to the provisions

1 of sections ~~3575(f)~~ and ~~3576(e)~~ of this title, to increase  
 2 or decrease such sentence. No such sentence so imposed  
 3 pursuant to any such section shall be considered final until  
 4 after the final disposition of any such review taken with  
 5 respect to such sentence or until the expiration of the period  
 6 during which any such review may be taken.

7 **~~“§ 3578. Use of evidence in connection with sentencing~~**

8 ~~“In sentencing any person convicted of a crime or offense~~  
 9 ~~in any court of the United States, a judge may, in order to~~  
 10 ~~obtain the fullest information on the background and char-~~  
 11 ~~acter of any such person for the purpose of imposing an~~  
 12 ~~appropriate sentence, receive and consider any and all evi-~~  
 13 ~~dence and evaluate its relevancy to the matters involved~~  
 14 ~~without regard to the manner in which such evidence was~~  
 15 ~~obtained.”~~

16 ~~(b) The analysis of such chapter 227 is amended by~~  
 17 ~~adding at the end thereof the following new items:~~

~~“3575. Increased punishment for habitual offenders.~~

~~“3576. Increased punishment for professional offenders or organized crime  
 offenders.~~

~~“3577. Review of sentence.~~

~~“3578. Use of evidence in connection with sentencing.”~~

18 **~~TITLE IX—SEPARABILITY~~**

19 ~~SEC. 901. If any provision of or any amendment made~~  
 20 ~~by this Act or the application thereof to any person or cir-~~  
 21 ~~cumstance is held invalid, the other provisions of or other~~  
 22 ~~amendments made by this Act and the application of such~~

1 ~~provisions and amendments to other persons or circumstances~~  
2 ~~shall not be affected thereby.~~

3 *That this Act may be cited as the "Organized Crime Control*  
4 *Act of 1969."*

5 *STATEMENT OF FINDINGS AND PURPOSE*

6 *The Congress finds that (1) organized crime in the*  
7 *United States is a highly sophisticated, diversified, and wide-*  
8 *spread activity that annually drains billions of dollars from*  
9 *America's economy by unlawful conduct and the illegal use*  
10 *of force, fraud, and corruption; (2) organized crime derives*  
11 *a major portion of its power through money obtained from*  
12 *such illegal endeavors as syndicated gambling, loan sharking,*  
13 *the theft and fencing of property, the importation and dis-*  
14 *tribution of narcotics and other dangerous drugs, and other*  
15 *forms of social exploitation; (3) this money and power are*  
16 *increasingly used to infiltrate and corrupt legitimate business*  
17 *and labor unions and to subvert and corrupt our democratic*  
18 *processes; (4) organized crime activities in the United States*  
19 *weaken the stability of the Nation's economic system, harm*  
20 *innocent investors and competing organizations, interfere*  
21 *with free competition, seriously burden interstate and foreign*  
22 *commerce, threaten the domestic security, and undermine the*  
23 *general welfare of the Nation and its citizens; and (5) or-*  
24 *ganized crime continues to grow because of defects in the*  
25 *evidence-gathering process of the law inhibiting the develop-*

1 *ment of the legally admissible evidence necessary to bring*  
 2 *criminal and other sanctions or remedies to bear on the*  
 3 *unlawful activities of those engaged in organized crime and*  
 4 *because the sanctions and remedies available to the Govern-*  
 5 *ment are unnecessarily limited in scope and impact.*

6 *It is the purpose of this Act to seek the eradication of*  
 7 *organized crime in the United States by strengthening the*  
 8 *legal tools in the evidence-gathering process, by establishing*  
 9 *new penal prohibitions, and by providing enhanced sanctions*  
 10 *and new remedies to deal with the unlawful activities of those*  
 11 *engaged in organized crime.*

## 12 **TITLE I—SPECIAL GRAND JURY**

13 *SEC. 101. (a) Title 18, United States Code, is*  
 14 *amended by adding immediately after chapter 215 the fol-*  
 15 *lowing new chapter:*

### 16 **“Chapter 216.—SPECIAL GRAND JURY**

*“Sec.*

*“3331. Summoning and term.*

*“3332. Powers and duties.*

*“3333. Reports.*

*“3334. General provisions.*

#### 17 **“§ 3331. Summoning and term**

18 *“(a) In addition to such other grand juries as shall be*  
 19 *called from time to time, each district court which is located*  
 20 *in a judicial district containing more than four million*  
 21 *inhabitants or in which the Attorney General, the Deputy*  
 22 *Attorney General or any designated Assistant Attorney*  
 23 *General, certifies in writing to the chief judge of the district*

1   *that in his judgment a special grand jury is necessary be-*  
2   *cause of criminal activity in the district shall order a special*  
3   *grand jury to be summoned at least once in each period*  
4   *of eighteen months unless another special grand jury is then*  
5   *serving. The grand jury shall serve for a term of eighteen*  
6   *months unless an order for its discharge is entered earlier*  
7   *by the court upon a determination of the grand jury by*  
8   *majority vote that its business has been completed. If, at the*  
9   *end of such term or any extension thereof, a grand jury*  
10   *determines by majority vote that its business has not been*  
11   *completed, the court shall enter an order extending such*  
12   *term for an additional period of six months. No special*  
13   *grand jury term so extended shall exceed thirty-six months,*  
14   *except as provided in subsection (e) of section 3333 of this*  
15   *chapter.*

16       “(b) *If a district court within any judicial circuit fails*  
17   *to extend the term of a special grand jury upon application*  
18   *made by the grand jury pursuant to subsection (a) of this*  
19   *section, or enters an order for the discharge of such grand*  
20   *jury before it determines that it has completed its business, the*  
21   *grand jury, upon the affirmative vote of a majority of its*  
22   *members, may apply to the chief judge of the circuit for an*  
23   *order for the continuance of the term of the grand jury.*  
24   *Upon the making of such an application by the grand jury,*



1 *the term thereof shall continue until the entry upon such*  
2 *application by the chief judge of the circuit of an appropriate*  
3 *order in conformity with the provisions of subsection (a) of*  
4 *this section. No special grand jury term so extended shall*  
5 *exceed thirty-six months, except as provided in subsection (e)*  
6 *of section 3333 of this chapter.*

7 **“§ 3332. Powers and duties**

8       “(a) *Each special grand jury when impaneled shall elect*  
9 *by majority vote a foreman and a deputy foreman from*  
10 *among its members.*

11       “(b) *It shall be the duty of each such grand jury*  
12 *impaneled within any judicial district to inquire into of-*  
13 *fenses against the criminal laws of the United States alleged*  
14 *to have been committed within that district which are brought*  
15 *to the attention of the grand jury by the court or by any*  
16 *person.*

17       “(c) *Whenever the special grand jury impaneled within*  
18 *any judicial district determines by majority vote that the*  
19 *volume of business of the grand jury exceeds the capacity of*  
20 *the grand jury to discharge its obligations, the grand jury may*  
21 *apply to the district court to impanel an additional special*  
22 *grand jury for that district. Upon any such application and a*  
23 *showing of need, such court shall order an additional grand*  
24 *jury to be impaneled. If the district court declines to hear*

1 such an application, or to grant such application after hear-  
2 ing, the grand jury may apply to the chief judge of the circuit  
3 for an order impaneling an additional special grand jury for  
4 that district. Such chief judge shall hear and determine such  
5 application at the earliest practicable time, and shall have  
6 jurisdiction to enter thereon such orders as may be required  
7 to provide for the impaneling of an additional grand jury  
8 within the judicial district for which such application was  
9 made.

10 “(d) Whenever the special grand jury determines by  
11 majority vote that any attorney or investigative officer or  
12 agent appearing on behalf of the United States before the  
13 grand jury for the presentation of evidence with respect to any  
14 matter has not performed or is not performing his duties  
15 diligently or effectively, the grand jury may transmit to the  
16 Attorney General in writing a statement of the reasons for  
17 such determination, together with a request for the designation  
18 by the Attorney General of another attorney or investigative  
19 officer or agent to appear before the grand jury for that pur-  
20 pose. Upon receipt of any such request, the Attorney Gen-  
21 eral shall promptly cause inquiry to be made as to the merits  
22 of the allegations made by the grand jury and shall take what-  
23 ever action he finds appropriate to provide for the United

1 *States' prompt and effective representation before such grand*  
2 *jury.*

3 **“§ 3333. Reports**

4       “(a) *A special grand jury impaneled by any district*  
5 *court, with the concurrence of a majority of its members, may,*  
6 *upon completion of its original term, or each extension thereof,*  
7 *submit to the court a report—*

8               “(1) *concerning noncriminal misconduct, malfea-*  
9 *sance or misfeasance in office by a public officer or em-*  
10 *ployee as the basis for a recommendation of removal or*  
11 *disciplinary action; or*

12               “(2) *stating that after investigation of a public*  
13 *officer or employee it finds no misconduct, malfeasance or*  
14 *misfeasance, or neglect in office by him, provided that*  
15 *such public officer or employee has requested the submis-*  
16 *sion of such report; or*

17               “(3) *proposing recommendations for legislative, ex-*  
18 *ecutive, or administrative action in the public interest*  
19 *based upon stated findings; or*

20               “(4) *regarding organized crime conditions in the*  
21 *district.*

22       “(b) *The court to which such report is submitted shall*  
23 *examine it and the minutes of the special grand jury and, ex-*  
24 *cept as otherwise provided in subsections (c) and (d) of this*  
25 *section, shall make an order accepting and filing such report*

1 as a public record only if the court is satisfied that it complies  
2 with the provisions of subsection (a) of this section and that—

3 “(1) the report is based upon facts revealed in the  
4 course of an investigation authorized by subsection (b)  
5 of section 3332 and is supported by the preponderance  
6 of the evidence; and

7 “(2) when the report is submitted pursuant to para-  
8 graph (1) of subsection (a) of this section, each person  
9 named therein was afforded an opportunity to testify be-  
10 fore the grand jury prior to the filing of such report, and  
11 when the report is submitted pursuant to paragraphs  
12 (3) or (4) of subsection (a) of this section, it is not  
13 critical of an identified person.

14 “(c)(1) An order accepting a report pursuant to para-  
15 graph (1) of subsection (a) of this section and the report  
16 shall be sealed by the court and shall not be filed as a public  
17 record, subject to subpoena or otherwise made public (i) until  
18 at least thirty-one days after a copy of the order and report  
19 are served upon each public officer or employee named therein  
20 and an answer has been filed or the time for filing an answer  
21 has expired, or (ii) if an appeal is taken, until all rights of  
22 review of the public officer or employee named therein have  
23 expired or terminated in an order accepting the report. No  
24 order accepting a report pursuant to paragraph (1) of sub-

1 *section (a) of this section shall be entered until thirty days*  
2 *after the delivery of such report to the public officer or body*  
3 *pursuant to paragraph (3) of subsection (c) of this section.*

4 *The court may issue such orders as it shall deem appropriate*  
5 *to prevent unauthorized publication of a report. Unauthor-*  
6 *ized publication may be punished as contempt of the court.*

7       “(2) *Such public officer or employee may file with the*  
8 *clerk a verified answer to such a report not later than twenty*  
9 *days after service of the order and report upon him. Upon a*  
10 *showing of good cause, the court may grant such public offi-*  
11 *cer or employee an extension of time within which to file such*  
12 *answer and may authorize such limited publication of the*  
13 *report as may be necessary to prepare such answer. Such an*  
14 *answer shall plainly and concisely state the facts and law*  
15 *constituting the defense of the public officer or employee to*  
16 *the charges in said report, and, except for those parts thereof*  
17 *which the court determines to have been inserted scandalously,*  
18 *prejudiciously, or unnecessarily, such answer shall become an*  
19 *appendix to the report.*

20       “(3) *Upon the expiration of the time set forth in para-*  
21 *graph (1) of subsection (c) of this section, the United States*  
22 *attorney shall deliver a true copy of such report, and the*  
23 *appendix, if any, for appropriate action to each public officer*  
24 *or body having jurisdiction, responsibility or authority over*  
25 *each public officer or employee named in the report.*

1       “(d) Upon the submission of a report pursuant to sub-  
2 section (a) of this section, if the court finds that the filing of  
3 such report as a public record may prejudice fair considera-  
4 tion of a pending criminal matter, it shall order such report  
5 sealed and such report shall not be subject to subpoena or  
6 public inspection during the pendency of such criminal mat-  
7 ter, except upon order of the court.

8       “(e) Whenever the court to which a report is submitted  
9 pursuant to paragraph (1) of subsection (a) of this section  
10 is not satisfied that the report complies with the provisions of  
11 subsection (b) of this section, it may direct that additional  
12 testimony be taken before the same grand jury, or it shall  
13 make an order sealing such report, and it shall not be filed as  
14 a public record, subject to subpoena or otherwise made public  
15 until the provisions of subsection (b) of this section are met.  
16 A special grand jury term may extend beyond thirty-six  
17 months in order that such additional testimony may be taken  
18 or the provisions of subsection (b) of this section may  
19 be met.

20       “(f) As used in this section, ‘public officer or employee’  
21 means any officer or employee of the United States, any  
22 State, the District of Columbia, the Commonwealth of Puerto  
23 Rico, any territory or possession of the United States, or  
24 any political subdivision, or any department, agency, or  
25 instrumentality thereof.

1   “§ 3334. *General provisions*

2       *“The provisions of chapter 215, title 18, United States*  
 3 *Code, and the Federal Rules of Criminal procedure appli-*  
 4 *cable to regular grand juries shall apply to special grand*  
 5 *juries to the extent not inconsistent with sections 3331, 3332,*  
 6 *or 3333 of this chapter.*

7       *(b) The table of contents of part II, title 18, United*  
 8 *States Code, is amended by adding immediately after*

*“215. Grand Jury----- 3321”*

9 *the following new item:*

*“216. Special Grand Jury----- 3331.”*

10       *SEC. 102. (a) Subsection (a), section 3500, chapter*  
 11 *223, title 18, United States Code, is amended by striking*  
 12 *“to an agent of the Government” following “the defendant”.*

13       *(b) Subsection (d), section 3500, chapter 223, title 18,*  
 14 *United States Code, is amended by striking “paragraph”*  
 15 *following “the court under” and inserting in lieu thereof*  
 16 *“subsection”.*

17       *(c) Paragraph (1), subsection (e), section 3500, chap-*  
 18 *ter 223, title 18, United States Code, is amended by strik-*  
 19 *ing the “or” following the semicolon.*

20       *(d) Paragraph (2), subsection (e), section 3500, chap-*  
 21 *ter 223, title 18, United States Code, is amended by striking*  
 22 *“to an agent of the Government” after “said witness” and*  
 23 *by striking the period at the end thereof and inserting in lieu*

1 thereof: “; or (3) a statement, however taken or recorded,  
2 or a transcription thereof, if any, made by said witness to  
3 a grand jury.”.

#### 4 TITLE II—GENERAL IMMUNITY

5 SEC. 201. (a) Title 18, United States Code, is  
6 amended by adding immediately after part IV the following  
7 new part:

#### 8 “PART V.—IMMUNITY OF WITNESSES

“Sec.

“6001. Definitions.

“6002. Immunity generally.

“6003. Court and grand jury proceedings.

“6004. Certain administrative proceedings.

“6005. Congressional proceedings.

#### 9 “§ 6001. Definitions

10 “As used in this part—

11 “(1) ‘agency of the United States’ means any  
12 executive department (as defined in 80 Stat. 948; 80  
13 Stat. 378 (5 U.S.C. sec. 101)), a military department  
14 (as defined in 80 Stat. 378 (5 U.S.C. sec 102)), the  
15 Atomic Energy Commission, the China Trade Act regis-  
16 trar appointed under 53 Stat. 1432 (15 U.S.C. sec.  
17 143), the Civil Aeronautics Board, the Federal Com-  
18 munications Commission, the Federal Deposit Insurance  
19 Corporation, the Federal Maritime Commission, the Fed-  
20 eral Power Commission, the Federal Trade Commission,  
21 the Interstate Commerce Commission, the National Labor  
22 Relations Board, the National Transportation Safety



1     *Board, the Railroad Retirement Board, an arbitration*  
 2     *board established under 48 Stat. 1193 (45 U.S.C. sec.*  
 3     *157), the Securities and Exchange Commission, the*  
 4     *Subversive Activities Control Board, or a board estab-*  
 5     *lished under 49 Stat. 31 (15 U.S.C. sec. 715d);*

6             “(2) ‘other information’ includes any book, paper,  
 7     document, record, recording, or other material;

8             “(3) ‘proceeding before an agency of the United  
 9     States’ means any proceeding before such an agency  
 10    with respect to which it is authorized to issue subpoenas  
 11    and to take testimony or receive other information from  
 12    witnesses under oath; and

13            “(4) ‘court of the United States’ means any of  
 14    the following courts: the Supreme Court of the United  
 15    States, a United States court of appeals, a United  
 16    States district court established under chapter 5, title  
 17    28, United States Code, the District Court of Guam,  
 18    the District Court of the Virgin Islands, the United  
 19    States Court of Claims, the United States Court of  
 20    Customs and Patent Appeals, the Tax Court of the  
 21    United States, the Customs Court, and the Court of  
 22    Military Appeals.

23    “§ 6002. *Immunity generally*

24            “Whenever a witness refuses, on the basis of his privilege  
 25    against self-incrimination, to testify or provide other infor-  
 26    mation in a proceeding before or ancillary to—

1           “(1) a court or grand jury of the United States,

2           “(2) an agency of the United States, or

3           “(3) either House of Congress, a joint committee of  
4       the two Houses, or a committee or a subcommittee of either  
5       House,

6   and the person presiding over the proceeding communicates  
7   to the witness an order issued under this part, the witness  
8   may not refuse to comply with the order on the basis of his  
9   privilege against self-incrimination. No such testimony or  
10   other information so compelled under the order or evidence  
11   or other information which is obtained by the exploitation of  
12   such testimony may be used against the witness in any  
13   criminal case, except a prosecution for perjury, giving a  
14   false statement, or otherwise failing to comply with the order.

15   “§ 6003. *Court and grand jury proceedings*

16       “(a) In the case of any individual who has been or may  
17   be called to testify or provide other information at any pro-  
18   ceeding before or ancillary to a court of the United States, a  
19   grand jury of the United States or the Department of Justice,  
20   the United States district court for the judicial district in  
21   which the proceeding is or may be held shall issue, in accord-  
22   ance with subsection (b) of this section, upon the request of  
23   the United States attorney for such district, an order requir-  
24   ing such individual to give testimony or provide other infor-  
25   mation which he refuses to give or provide on the basis of his

1 *privilege against self-incrimination, such order to become*  
2 *effective as provided in section 6002 of this chapter.*

3       “(b) *A United States attorney may, with the approval*  
4 *of the Attorney General, the Deputy Attorney General, or*  
5 *any designated Assistant Attorney General, request an order*  
6 *under subsection (a) of this section when in his judgment—*

7               “(1) *the testimony or other information from such*  
8 *individual may be necessary to the public interest; and*

9               “(2) *such individual has refused or is likely to re-*  
10 *fuse to testify or provide other information on the basis*  
11 *of his privilege against self-incrimination.*

12 **“§ 6004. *Certain administrative proceedings***

13       “(a) *In the case of any individual who has been or*  
14 *who may be called to testify or provide other information*  
15 *at any proceeding before an agency of the United States other*  
16 *than the Department of Justice, the agency may issue, in ac-*  
17 *cordance with subsection (b) of this section, an order requir-*  
18 *ing the individual to give testimony or provide other informa-*  
19 *tion which he refuses to give or provide on the basis of his*  
20 *privilege against self-incrimination, such order to become*  
21 *effective as provided in section 6002 of this chapter.*

22       “(b) *An agency of the United States may issue an order*  
23 *under subsection (a) of this section only if in its judgment—*

24               “(1) *the testimony or other information from such*  
25 *individual may be necessary to the public interest; and*

1           “(2) *such individual has refused or is likely to*  
2           *refuse to testify or provide other information on the*  
3           *basis of his privilege against self-incrimination.*

4           *The agency may issue such an order ten days after the*  
5           *day on which it served the Attorney General with notice of its*  
6           *intention to issue the order or upon approval of the Attorney*  
7           *General.*

8           “§ 6005. *Congressional proceedings*

9           “(a) *In the case of any individual who has been or*  
10          *may be called to testify or provide other information at any*  
11          *proceeding before either House of Congress, or any com-*  
12          *mittee, or any subcommittee of either House, or any joint*  
13          *committee of the two Houses, a United States district court*  
14          *shall issue, in accordance with subsection (b) of this section,*  
15          *upon the request of a duly authorized representative of the*  
16          *House of Congress or the committee concerned, an order*  
17          *requiring such individual to give testimony or provide other*  
18          *information which he refuses to give or provide on the basis*  
19          *of his privilege against self-incrimination, such order to be-*  
20          *come effective as provided in section 6002 of this chapter.*

21          “(b) *Before issuing an order under subsection (a) of*  
22          *this section, a United States district court shall find that—*

23                 “(1) *in the case of a proceeding before either House*  
24                 *of Congress, the request for such an order has been ap-*

1       proved by an affirmative vote of a majority of the  
2       Members present of that House;

3           “(2) in the case of a proceeding before a committee  
4       or a subcommittee of either House of Congress or a  
5       joint committee of both Houses, the request for such an  
6       order has been approved by an affirmative vote of two-  
7       thirds of the members of the full committee; and

8           “(3) ten days or more prior to the day on which the  
9       request for such an order was made, the Attorney Gen-  
10      eral was served with notice of an intention to request  
11      the order.

12       “(c) Upon application of the Attorney General, the  
13      United States district court shall defer the issuance of any  
14      order under subsection (a) of this section for such period,  
15      not longer than twenty days from the date of the request for  
16      such order, as the Attorney General may specify.”

17       “(b) The table of parts for title 18, United States Code, is  
18      amended by adding at the end thereof the following new item:

**“V. Immunity of Witness----- 6001.”**

19       SEC. 202. The third sentence of paragraph (b) of sec-  
20      tion 6 of the Commodity Exchange Act (69 Stat. 160; 7  
21      U.S.C. 15) is amended by striking “49 U.S.C. 12, 46, 47,  
22      48, relating to the attendance and testimony of witnesses, the  
23      production of documentary evidence, and the immunity of  
24      witnesses” and by inserting in lieu thereof the following:

1 “(49 U.S.C. § 12), relating to the attendance and testimony  
2 of witnesses and the production of documentary evidence,”.

3 SEC. 203. Subsection (f) of section 17 of the United  
4 States Grain Standards Act (82 Stat. 768; 7 U.S.C. § 87f  
5 (f)), is repealed.

6 SEC. 204. The second sentence of section 5 of the Act  
7 entitled “An Act to regulate the marketing of economic poisons  
8 and devices, and for other purposes”, approved June 25,  
9 1947 (61 Stat. 168; 7 U.S.C. § 135c), is amended by insert-  
10 ing after “section”, the following language: “, or any evidence  
11 which is obtained by the exploitation of information,”.

12 SEC. 205. Subsection (f) of section 13 of the Perishable  
13 Agricultural Commodities Act, 1930 (46 Stat. 536; 7  
14 U.S.C. § 499m(f)), is repealed.

15 SEC. 206. (a) Section 16 of the Cotton Research and  
16 Promotion Act (80 Stat. 285; 7 U.S.C. § 2115), is amended  
17 by striking “(a)” and by striking subsection (b).

18 (b) The section heading for such section 16 is amended  
19 by striking “: Self-Incrimination”.

20 SEC. 207. Clause (10) of subsection (a) of section 7  
21 of the Act entitled “An Act to establish a uniform system  
22 of bankruptcy throughout the United States”, approved  
23 July 1, 1898 (52 Stat. 847; 11 U.S.C. § 25(a)(10)), is  
24 amended by inserting after the first use of the term “testi-

1 *mony*" the following language: " , or any evidence which is  
2 *obtained by the exploitation of such testimony,*".

3 *SEC. 208. The fourth sentence of subsection (d) of sec-*  
4 *tion 10 of the Federal Deposit Insurance Act (64 Stat. 882;*  
5 *12 U.S.C. § 1820(d) ), is repealed.*

6 *SEC. 209. The seventh paragraph under the center head-*  
7 *ing "DEPARTMENT OF JUSTICE" in the first section of the*  
8 *Act of February 25, 1903 (32 Stat. 904; 15 U.S.C. § 32),*  
9 *is amended by striking " : Provided, That" and all that*  
10 *follows in that paragraph and inserting in lieu thereof a*  
11 *period.*

12 *SEC. 210. The Act of June 30, 1906 (34 Stat. 798; 15*  
13 *U.S.C. § 33), is repealed.*

14 *SEC. 211. The seventh paragraph of section 9 of the*  
15 *Federal Trade Commission Act (38 Stat. 722; 15 U.S.C.*  
16 *§ 49), is repealed.*

17 *SEC. 212. Subsection (d) of section 21 of the Securities*  
18 *Exchange Act of 1934 (48 Stat. 899; 15 U.S.C. § 78u(d) ),*  
19 *is repealed.*

20 *SEC. 213. Subsection (c) of section 22 of the Securities*  
21 *Act of 1933 (48 Stat. 86; 15 U.S.C. § 77v(c) ), is repealed.*

22 *SEC. 214. Subsection (e) of section 18 of the Public*  
23 *Utility Holding Company Act of 1935 (49 Stat. 831; 15*  
24 *U.S.C. § 79r(e) ), is repealed.*

25 *SEC. 215. Subsection (d) of section 42 of the Investment*

1 *Company Act of 1940 (54 Stat. 842; 15 U.S.C. § 80a-41*  
2 *(d))*, is repealed.

3 *SEC. 216. Subsection (d) of section 209 of the Invest-*  
4 *ment Advisers Act of 1940 (54 Stat. 853; 15 U.S.C. § 80b-*  
5 *9(d))*, is repealed.

6 *SEC. 217. Subsection (c) of section 15 of the China*  
7 *Trade Act, 1922 (42 Stat. 953; 15 U.S.C. § 155(c))*, is  
8 repealed.

9 *SEC. 218. Subsection (h) of section 14 of the Natural*  
10 *Gas Act (52 Stat. 828; 15 U.S.C. § 717m(h))*, is repealed.

11 *SEC. 219. The first proviso of section 12 of the Act*  
12 *entitled "An Act to regulate the interstate distribution and sale*  
13 *of packages of hazardous substances intended or suitable for*  
14 *household use," approved July 12, 1960 (74 Stat. 379; 15*  
15 *U.S.C. § 1271)*, is amended by inserting after "section" the  
16 *following language: " , or any evidence which is obtained by*  
17 *the exploitation of such information,"*.

18 *SEC. 220. Subsection (e) of section 1415 of the Inter-*  
19 *state Land Sales Full Disclosure Act (82 Stat. 596; 15*  
20 *U.S.C. § 1714(e))*, is repealed.

21 *SEC. 221. Subsection (g) of section 307 of the Federal*  
22 *Power Act (49 Stat. 856; 16 U.S.C. § 825f(g))*, is re-  
23 pealed.

24 *SEC. 222. Subsection (b) of section 835 of title 18,*



1 *United States Code, is amended by striking the third*  
2 *sentence thereof.*

3       *SEC. 223. (a) Section 895 of title 18, United States*  
4 *Code, is repealed.*

5       *(b) The table of sections of chapter 42 of such title is*  
6 *amended by striking the item relating to section 895.*

7       *SEC. 224. (a) Section 1406 of title 18, United States*  
8 *Code, is repealed.*

9       *(b) The table of sections of chapter 68 of such title is*  
10 *amended by striking the item relating to section 1406.*

11       *SEC. 225. Section 1954 of title 18, United States Code,*  
12 *is amended by striking “(a) Whoever” and inserting in*  
13 *lieu thereof “Whoever” and by striking subsection (b)*  
14 *thereof.*

15       *SEC. 226. The second sentence of subsection (b), section*  
16 *2424, title 18, United States Code is amended by striking*  
17 *“but no person” and all that follows in that subsection and*  
18 *inserting in lieu thereof: “but no information contained in*  
19 *the statement or any evidence which is obtained by the exploi-*  
20 *tation of such information may be used against any person*  
21 *making such statement in any criminal case, except a prose-*  
22 *cution for perjury, giving a false statement or otherwise fail-*  
23 *ing to comply with this section.”*

24       *SEC. 227. (a) Section 2514 of title 18, United States*  
25 *Code, is repealed effective four years after the effective date*  
26 *of this Act.*

1        *(b) The table of sections of chapter 119 of such title is*  
2        *amended by striking the item relating to section 2514.*

3        *SEC. 228. (a) Section 3486 of title 18, United States*  
4        *Code is repealed.*

5        *(b) The table of sections of chapter 223 of such title is*  
6        *amended by striking the item relating to section 3486.*

7        *SEC. 229. Subsection (e) of section 333 of the Tariff*  
8        *Act of 1930 (46 Stat. 699; 19 U.S.C. § 1333(e)), is*  
9        *amended by striking “: Provided, That” and all that follows*  
10       *in that subsection and inserting in lieu thereof a period.*

11       *SEC. 230. The first proviso of section 703 of the Federal*  
12       *Food, Drug and Cosmetic Act, approved June 25, 1938 (52*  
13       *Stat. 1057; 21 U.S.C. § 373), is amended by inserting after*  
14       *“section” the following language: “, or any evidence which*  
15       *is obtained by the exploitation of such evidence,”.*

16       *SEC. 231. (a) Section 4874 of the Internal Revenue*  
17       *Code of 1954 is repealed.*

18       *(b) The table of sections of part III of subchapter (D)*  
19       *of chapter 39 of such Code is amended by striking the*  
20       *item relating to section 4874.*

21       *SEC. 232. (a) Section 7493 of the Internal Revenue*  
22       *Code of 1954 is repealed.*

23       *(b) The table of sections of part III of subchapter (E)*  
24       *of chapter 76 of such Code is amended by striking the*  
25       *item relating to section 7493.*

1        *SEC. 233. (a) Subchapter (E) of chapter 75 of the*  
 2        *Internal Revenue Code of 1954 is repealed.*

3        *(b) The table of subchapters for chapter 75 of the In-*  
 4        *ternal Revenue Code of 1954 is amended by striking the*  
 5        *item*

*"Subchapter E. . . . Immunity."*

6        *SEC. 234. Paragraph (3) of section 11 of the Labor*  
 7        *Management Relations Act, 1947 (49 Stat. 455; 29 U.S.C.*  
 8        *§ 161(3)), is repealed.*

9        *SEC. 235. The third sentence of section 4 of the Act en-*  
 10        *titled "An Act to provide that tolls on certain bridges over*  
 11        *navigable waters of the United States shall be just and reason-*  
 12        *able, and for other purposes", approved August 21, 1935*  
 13        *(49 Stat. 671; 33 U.S.C. § 506), is repealed.*

14        *SEC. 236. Subsection (f) of section 205 of the Social*  
 15        *Security Act (42 U.S.C. § 405(f)) is repealed.*

16        *SEC. 237. Paragraph c of section 161 of the Atomic*  
 17        *Energy Act of 1954 (68 Stat. 948; 42 U.S.C. § 2201(c)),*  
 18        *is amended by striking the third sentence thereof.*

19        *SEC. 238. The last sentence of the first paragraph of sub-*  
 20        *paragraph (h) of the paragraph designated "Third" of*  
 21        *section 7 of the Railway Labor Act (44 Stat. 582; 45*  
 22        *U.S.C. § 157), is repealed.*

23        *SEC. 239. Subsection (c) of section 12 of the Railroad*  
 24        *Unemployment Insurance Act (52 Stat. 1107; 45 U.S.C.*  
 25        *§ 362(c)), is repealed.*

1        *SEC. 240. Section 28 of the Shipping Act of 1916 (39*  
 2        *Stat. 737; 46 U.S.C. § 827), is repealed.*

3        *SEC. 241. Subsection (c) of section 214 of the Merchant*  
 4        *Marine Act, 1936 (49 Stat. 1991; 46 U.S.C. § 1124(c)),*  
 5        *is repealed.*

6        *SEC. 242. Subsection (i) of section 409 of the Com-*  
 7        *munications Act of 1934 (48 Stat. 1096; 47 U.S.C. § 409*  
 8        *(l)), is repealed.*

9        *SEC. 243. (a) The second sentence of section 9 of the*  
 10        *Interstate Commerce Act (24 Stat. 382; 49 U.S.C. § 9), is*  
 11        *amended by striking “; the claim” and all that follows*  
 12        *in that sentence and inserting in lieu thereof a period.*

13        *(b) Subsection (a) of section 316 of the Interstate Com-*  
 14        *merce Act (54 Stat. 946; 49 U.S.C. § 916(a)) is amended*  
 15        *by striking the comma following “part I” and by striking*  
 16        *“, and the Immunity of Witnesses Act (34 Stat. 798;*  
 17        *32 Stat. 904, ch. 755, sec. 1),”.*

18        *(c) Subsection (a) of section 417 of the Interstate Com-*  
 19        *merce Act (49 U.S.C. § 1017(a)), is amended by striking*  
 20        *the comma after “such provisions” and by striking “, and of*  
 21        *the Immunity of Witnesses Act (34 Stat. 798; 32 Stat. 904,*  
 22        *ch. 755, sec. 1),”.*

23        *SEC. 244. The third sentence of section 3 of the Act*  
 24        *entitled “An Act to further regulate Commerce with foreign*

1 nations and among the States", approved February 19,  
2 1903 (32 Stat. 848; 49 U.S.C. § 43), is amended by strik-  
3 ing "; the claim" and all that follows in that sentence  
4 down through and including "Provided, That the provisions"  
5 and inserting in lieu thereof ". The provisions".

6 SEC. 245. The first paragraph of the Act of February  
7 11, 1893 (27 Stat. 443; 49 U.S.C. § 46), is repealed.

8 SEC. 246. Subsection (i) of section 1004 of the Federal  
9 Aviation Act of 1958 (72 Stat. 792; 49 U.S.C. § 1484(i)),  
10 is repealed.

11 SEC. 247. The ninth sentence of subsection (c) of sec-  
12 tion 13 of the Internal Security Act of 1950 (81 Stat. 798;  
13 50 U.S.C. § 792(c)), is repealed.

14 SEC. 248. Section 1302 of the Second War Powers Act  
15 of 1942 (56 Stat. 185; 50 U.S.C. App. § 643a), is  
16 amended by striking the fourth sentence thereof.

17 SEC. 249. Paragraph (4) of subsection (a) of section  
18 2 of the Act entitled "An Act to expedite national defense,  
19 and for other purposes", approved June 28, 1940 (54 Stat.  
20 676; 50 U.S.C. App. § 1152(a)(4)), is amended by  
21 striking the fourth sentence thereof.

22 SEC. 250. Subsection (d) of section 6 of the Export  
23 Control Act of 1949 (63 Stat. 8; 50 U.S.C. App.  
24 § 2026(b)) is repealed.

25 SEC. 251. Subsection (b) of section 705 of the Act of

1 *September 8, 1950, to amend the Tariff Act of 1930 (64*  
2 *Stat. 816; 50 U.S.C. § 2155(b)), is repealed.*

3 *SEC. 252. In addition to the provisions of law specifically*  
4 *amended or specifically repealed by this title, any other*  
5 *provision of law inconsistent with the provisions of part V*  
6 *of title 18, United States Code (added by title II of this*  
7 *Act), is to that extent amended or repealed.*

8 *TITLE III—RECALCITRANT WITNESSES*

9 *SEC. 301. (a) Chapter 119, title 28, United States*  
10 *Code, is amended by adding at the end thereof the following*  
11 *new section:*

12 *“§ 1826. Recalcitrant witnesses*

13 *“(a) Whenever a witness in any proceeding before or*  
14 *ancillary to any court or grand jury of the United States*  
15 *refuses without just cause shown to comply with an order of*  
16 *the court to testify or provide other information, including*  
17 *any book, paper, document, record, recording or other mate-*  
18 *rial, the court, upon such refusal, or when such refusal*  
19 *is duly brought to its attention, may summarily order his*  
20 *confinement at a suitable place until such time as the witness*  
21 *is willing to give such testimony or provide such information.*  
22 *No period of such confinement shall exceed the life of the*  
23 *court proceeding or of the term, including extensions, of the*  
24 *grand jury before which such refusal to comply with the*  
25 *court order occurred.*

1       “(b) No person confined pursuant to subsection (a)  
2 of this section shall be admitted to bail pending the determina-  
3 tion of an appeal taken by him from the order for his con-  
4 finement, unless there is substantial possibility of reversal.  
5 Any appeal from an order of confinement under this section  
6 shall be disposed of as soon as practicable, but not later than  
7 30 days from the filing of such appeal.”

8       (b) The analysis of chapter 119, title 28, United States  
9 Code, is amended by adding at the end thereof the following  
10 new item:

“1826. *Recalcitrant witnesses.*”.

11       SEC. 302. (a) The first paragraph of section 1073,  
12 chapter 49, title 18, United States Code, is amended by in-  
13 serting “or (3) to avoid contempt proceedings for alleged  
14 disobedience of any lawful process requiring attendance and  
15 the giving of testimony or the production of documentary evi-  
16 dence before an agency of a State empowered by the law of  
17 such State to conduct investigations of alleged criminal activi-  
18 ties,” immediately after “is charged,”.

19       (b) The second paragraph of section 1073, chapter 49,  
20 title 18, United States Code, is amended by inserting imme-  
21 diately after “held in custody or confinement” a comma and  
22 adding “or in which a contempt referred to in clause (3) of  
23 the first paragraph of this section is alleged to have been  
24 committed,”.

1           **TITLE IV—FALSE DECLARATIONS**

2           **SEC. 401.** *(a) Chapter 79, title 18, United States*  
3 *Code, is amended by adding at the end thereof the following*  
4 *new section:*

5           **“§ 1623. False declarations before grand jury or court**

6           *“(a) Whoever under oath in any proceeding before or*  
7 *ancillary to any court or grand jury of the United States*  
8 *knowingly makes any materially false declaration or makes*  
9 *or uses any other information, including any book, paper,*  
10 *document, record, recording or other material, knowing the*  
11 *same to contain any materially false declaration, shall be*  
12 *finned not more than \$10,000 or imprisoned not more than five*  
13 *years, or both.*

14           *“(b) This section is applicable whether the conduct oc-*  
15 *curred within or without the United States.*

16           *“(c) An indictment or information for violation of this*  
17 *section alleging that the defendant under oath has made con-*  
18 *tradictory declarations material to the point in question in*  
19 *any proceeding before or ancillary to any court or grand*  
20 *jury of the United States, need not specify which declaration*  
21 *is false. In any prosecution under this section, the falsity of*  
22 *a declaration set forth in the indictment or information*  
23 *shall be established sufficient for conviction by proof that the*  
24 *defendant while under oath made manifestly contradictory*  
25 *declarations material to the point in question in any proceed-*



ing before or ancillary to any court or grand jury. Where the contradictory declarations are made in the same continuous court or grand jury proceeding, an admission by a person in that same continuous court or grand jury proceeding of the falsity of his contradictory declaration shall bar prosecution under this section if, at the time the admission is made, the false declaration has not substantially affected the proceeding, or it has not become manifest that such falsity has been or will be exposed.

“(d) Proof beyond a reasonable doubt under this section is sufficient for conviction. It shall not be necessary that such proof be made by any particular number of witnesses or by documentary or other type of evidence.”

(b) The analysis of chapter 79, title 18, United States Code, is amended by adding at the end thereof the following new item:

“1623. False declarations before grand jury or court.”

## TITLE V—PROTECTED FACILITIES FOR HOUSING GOVERNMENT WITNESSES

SEC. 501. The Attorney General of the United States is authorized to provide for the security of Government witnesses, potential Government witnesses, and the families of Government witnesses and potential witnesses in legal proceedings against any person alleged to have participated in an organized criminal activity.

1       *SEC. 502. The Attorney General of the United States*  
2   *is authorized to rent, purchase, or construct protected hous-*  
3   *ing facilities and to otherwise offer to provide for the health,*  
4   *safety, and welfare of witnesses and persons intended to be*  
5   *called as Government witnesses, and the families of wit-*  
6   *nesses and persons intended to be called as Government wit-*  
7   *nesses in legal proceedings instituted against any person*  
8   *alleged to have participated in an organized criminal ac-*  
9   *tivity whenever, in his judgment, testimony from, or a will-*  
10   *ingness to testify by, such a witness would place his life*  
11   *or person, or the life or person of a member of his family*  
12   *or household, in jeopardy. Any person availing himself*  
13   *of an offer by the Attorney General to use such facilities may*  
14   *continue to use such facilities for as long as the Attorney*  
15   *General determines the jeopardy to his life or person*  
16   *continues.*

17       *SEC. 503. As used in this title, 'Government' means*  
18   *the United States, any State, the District of Columbia, the*  
19   *Commonwealth of Puerto Rico, any territory or possession*  
20   *of the United States, any political subdivision, or any de-*  
21   *partment, agency, or instrumentality thereof. The offer of*  
22   *facilities to witnesses may be conditioned by the Attorney*  
23   *General upon reimbursement in whole or in part to the*  
24   *United States by any State or any political subdivision, or*

1 *any department, agency, or instrumentality thereof of the*  
2 *cost of maintaining and protecting such witnesses.*

3 *SEC. 504. There is hereby authorized to be appropriated*  
4 *from time to time such funds as are necessary to carry out the*  
5 *provisions of this title.*

6 *TITLE VI—DEPOSITIONS*

7 *SEC. 601. (a) Chapter 223, title 18, United States Code,*  
8 *is amended by adding at the end thereof the following new*  
9 *section:*

10 *“§ 3503. Depositions to preserve testimony*

11 *“(a) Whenever due to exceptional circumstances it is in*  
12 *the interest of justice that the testimony of a prospective witness*  
13 *of a party be taken and preserved, the court at any time after*  
14 *the filing of an indictment or information may upon motion*  
15 *of such party and notice to the parties order that the testimony*  
16 *of such witness be taken by deposition and that any designated*  
17 *book, paper, document, record, recording, or other material*  
18 *not privileged be produced at the same time and place. If a*  
19 *witness is committed for failure to give bail to appear to tes-*  
20 *tify at a trial or hearing, the court on written motion of the*  
21 *witness and upon notice to the parties may direct that his*  
22 *deposition be taken. After the deposition has been subscribed*  
23 *the court may discharge the witness.*

24 *“(b) The party at whose instance a deposition is to be*  
25 *taken shall give to every party reasonable written notice of*

1 *the time and place for taking the deposition. The notice shall*  
2 *state the name and address of each person to be examined. On*  
3 *motion of a party upon whom the notice is served, the court*  
4 *for cause shown may extend or shorten the time or change the*  
5 *place for taking the deposition. The officer having custody of*  
6 *a defendant shall be notified of the time and place set for the*  
7 *examination, and shall produce him at the examination and*  
8 *keep him in the presence of the witness during the examina-*  
9 *tion. A defendant not in custody shall have the right to be*  
10 *present at the examination, but his failure, absent good cause*  
11 *shown, to appear after notice and tender of expenses shall*  
12 *constitute a waiver of that right and of any objection to the*  
13 *taking and use of the deposition based upon that right.*

14       “(c) *If a defendant is without counsel, the court shall*  
15 *advise him of his rights and assign counsel to represent him*  
16 *unless the defendant elects to proceed without counsel or is*  
17 *able to obtain counsel of his own choice. If it appears that a*  
18 *defendant cannot bear the expense of the taking of the deposi-*  
19 *tion, the court may direct that the expenses of travel and*  
20 *subsistence of the defendant and his attorney for attendance*  
21 *at the examination shall be paid by the Government. In such*  
22 *event the marshal shall make payment accordingly.*

23       “(d) *A deposition shall be taken and filed in the man-*  
24 *ner provided in civil actions. On request or waiver by the*  
25 *defendant the court may direct that a deposition be taken on*

1 *written interrogatories in the manner provided in civil actions.*  
 2 *Such request shall constitute a waiver of any objection to*  
 3 *the taking and use of the deposition based upon its being*  
 4 *so taken.*

5       “(e) *The Government shall make available to the de-*  
 6 *fendant for his examination and use at the taking of the*  
 7 *deposition any statement of the witness being deposed which*  
 8 *is in the possession of the Government and which the Govern-*  
 9 *ment would be required to make available to the defendant if*  
 10 *the witness were testifying at the trial.*

11       “(f) *Objections to receiving in evidence a deposition or*  
 12 *part thereof may be made as provided in civil actions.”*

13       “(b) *The analysis of chapter 223, title 18, United States*  
 14 *Code, is amended by adding at the end thereof the following*  
 15 *new item:*

“3503. *Depositions to preserve testimony.*”

## 16       TITLE VII—LITIGATION CONCERNING 17               SOURCES OF EVIDENCE

### 18               PART A—SPECIAL FINDINGS

19       SEC. 701. *The Congress finds that (1) hearing and re-*  
 20 *viewing claims that evidence offered in proceedings was ob-*  
 21 *tained by the exploitation of allegedly unlawful acts and is*  
 22 *therefore inadmissible in evidence are major causes of undue*  
 23 *expense and delay in the administration of justice and distract*  
 24 *effort, time, and emphasis of Government officials and the*

PART B—LITIGATION CONCERNING SOURCES OF  
EVIDENCE

SEC. 702. (a) Chapter 223, title 18, United States Code,  
is amended by adding at the end thereof the following new  
section:

1   “§ 3504. *Litigation concerning sources of evidence*

2       “(a) *In any trial, hearing, or other proceeding in or be-*  
3 *fore any court, grand jury, department, officer, agency, regu-*  
4 *latory body, or other authority of the United States, a State*  
5 *or a political subdivision thereof—*

6       “(1) *upon a claim, by a party aggrieved, that evi-*  
7 *dence is inadmissible because it is the primary product*  
8 *of an unlawful act or of lawful compulsion and grant of*  
9 *immunity, or because it was obtained by the exploitation*  
10 *of an unlawful act or of evidence given under lawful*  
11 *compulsion and grant of immunity, the opponent of the*  
12 *claim shall affirm or deny the occurrence of the alleged*  
13 *unlawful act or compulsion;*

14       “(2) *disclosure of information for a determination*  
15 *if evidence is inadmissible because it is the primary prod-*  
16 *uct of an unlawful act or of lawful compulsion and grant*  
17 *of immunity, or because it was obtained by the exploita-*  
18 *tion of an unlawful act or of evidence given under lawful*  
19 *compulsion and grant of immunity, shall not be required*  
20 *unless such information may be relevant to a pending*  
21 *claim of such inadmissibility and such disclosure is in*  
22 *the interest of justice; and*

23       “(3) *no claim shall be considered that evidence of an*  
24 *event is inadmissible on the ground that such evidence was*

1     *obtained by the exploitation of an unlawful act or of evi-*  
 2     *dence given under lawful compulsion and grant of im-*  
 3     *munity, if such event occurred more than five years after*  
 4     *such allegedly unlawful act or compulsion.*

5     “(b) *As used in this section—*

6             “(1) ‘State’ means any State of the United States,  
 7     *the District of Columbia, the Commonwealth of Puerto*  
 8     *Rico, and any territory or possession of the United*  
 9     *States; and*

10            “(2) ‘unlawful act’ means any act in violation of  
 11     *the Constitution or laws of the United States or any regu-*  
 12     *lation or standard promulgated pursuant thereto.”*

13     (b) *The analysis of chapter 223, title 18, United States*  
 14     *Code, is amended by adding at the end thereof the following*  
 15     *new item:*

*“3504. Litigation concerning sources of evidence.”*

16     SEC. 703. *This title shall apply to all proceedings,*  
 17     *regardless of when commenced, occurring after the date of its*  
 18     *enactment. Paragraph (3) of subsection (a) of section 3504,*  
 19     *chapter 223, title 18, United States Code, shall not apply to*  
 20     *any proceeding in which all information to be relied upon*  
 21     *to establish inadmissibility was possessed by the party making*  
 22     *such claim and adduced in such proceeding prior to such*  
 23     *enactment.*



1           **TITLE VIII—SYNDICATED GAMBLING**

2                   **PART A—SPECIAL FINDINGS**

3           *SEC. 801. The Congress finds that (1) illegal gambling*  
 4 *involves widespread use of, and has an effect upon, interstate*  
 5 *commerce and the facilities thereof; (2) illegal gambling is*  
 6 *dependent upon facilities of interstate commerce for such pur-*  
 7 *poses as obtaining odds, making and accepting bets, and lay-*  
 8 *ing off bets; (3) money derived from or used in illegal*  
 9 *gambling moves in interstate commerce or is handled through*  
 10 *the facilities thereof; (4) paraphernalia for use in illegal*  
 11 *gambling moves in interstate commerce; and (5) illegal*  
 12 *gambling enterprises are facilitated by the corruption and*  
 13 *bribery of State and local officials or employees responsible*  
 14 *for the execution or enforcement of criminal laws.*

15           **PART B—OBSTRUCTION OF STATE OR LOCAL LAW**  
 16                   **ENFORCEMENT**

17           *SEC. 802. (a) Chapter 73, title 18, United States Code,*  
 18 *is amended by adding at the end thereof the following new*  
 19 *section:*

20           **“§ 1511. Obstruction of State or local law enforcement**

21           **“(a) It shall be unlawful for two or more persons to**  
 22 *participate in a scheme to obstruct the enforcement of the*  
 23 *criminal laws of a State or political subdivision thereof, with*  
 24 *the intent to facilitate an illegal gambling business, if—*

25           **“(1) one or more of such persons does any act to**  
 26 *effect the object of such a scheme;*

1           “(2) one or more of such persons is an official or  
2           employee, elected, appointed, or otherwise, who is respon-  
3           sible for the enforcement of criminal laws of such State  
4           or political subdivision; and

5           “(3) one or more of such persons participates in an  
6           illegal gambling business.

7           “(b) As used in this section—

8           “(1) ‘illegal gambling business’ means a gambling  
9           business which—

10           “(i) is a violation of the law of a State or  
11           political subdivision thereof;

12           “(ii) involves five or more persons who par-  
13           ticipate in the gambling activity; and

14           “(iii) has been or remains in operation for a  
15           period in excess of thirty days or has a gross reve-  
16           nue of \$2,000 in any single day.

17           “(2) ‘gambling’ includes pool-selling, bookmaking,  
18           maintaining slot machines, roulette wheels, or dice  
19           tables, and conducting lotteries, policy, bolita or num-  
20           bers games, or selling chances therein.

21           “(3) ‘State’ means any State of the United States,  
22           the District of Columbia, the Commonwealth of Puerto  
23           Rico, and any territory or possession of the United  
24           States.

25           “(c) This section shall not apply to any bingo game,

1 lottery, or similar game of chance conducted by an organiza-  
 2 tion exempt from tax under paragraph (3) of subsection  
 3 (c) of section 501 of the Internal Revenue Code of 1954,  
 4 as amended, if no part of the gross receipts derived from  
 5 such activity inures to the benefit of any private shareholder,  
 6 member, or employee of such organization, except as com-  
 7 pensation for actual expenses incurred by him in the con-  
 8 duct of such activity.

9 “(d) Whoever violates this section shall be punished  
 10 by a fine of not more than \$20,000 or imprisonment for  
 11 not more than five years, or both.”

12 (b) The analysis of chapter 73, title 18, United States  
 13 Code, is amended by adding at the end thereof the following  
 14 new item:

“1511. Obstruction of State or local law enforcement.”

#### 15 PART C—ILLEGAL GAMBLING BUSINESS

16 SEC. 803. (a) Chapter 95, title 18, United States  
 17 Code, is amended by adding at the end thereof the following  
 18 new section:

#### 19 “§ 1955. Prohibition of illegal gambling businesses

20 “(a) Whoever participates in an illegal gambling busi-  
 21 ness shall be fined not more than \$20,000 or imprisoned not  
 22 more than five years, or both.

23 “(b) As used in this section—

24 “(1) ‘illegal gambling business’ means a gambling  
 25 business which—

1           “(i) is a violation of the law of a State or politi-  
2           cal subdivision thereof;

3           “(ii) involves five or more persons who partici-  
4           pate in the gambling activity; and

5           “(iii) has been or remains in operation for a  
6           period in excess of thirty days or has a gross revenue  
7           of \$2,000 in any single day.

8           “(2) ‘gambling’ includes pool-selling, bookmaking,  
9           maintaining slot machines, roulette wheels or dice tables,  
10          and conducting lotteries, policy, bolita or numbers games,  
11          or selling chances therein.

12          “(3) ‘State’ means any State of the United States,  
13          the District of Columbia, the Commonwealth of Puerto  
14          Rico, and any territory or possession of the United States.

15          “(c) For the purposes of this section, if it is found that  
16          a gambling business has five or more persons who participate  
17          in such business and such business operates for two or more  
18          successive days, the probability shall have been established that  
19          such business receives gross revenue in excess of \$2,000 in  
20          any single day.

21          “(d) Any property, including money, used in violation  
22          of the provisions of this section may be seized and forfeited  
23          to the United States. All provisions of law relating to the seiz-  
24          ure, summary and judicial forfeiture procedures, and con-

1 demnation of vessels, vehicles, merchandise, and baggage for  
2 violation of the customs laws; the disposition of such vessels,  
3 vehicles, merchandise and baggage or the proceeds from such  
4 sale; the remission or mitigation of such forfeitures; and the  
5 compromise of claims and the award of compensation to in-  
6 formers in respect of such forfeitures shall apply to seizures  
7 and forfeitures incurred or alleged to have been incurred  
8 under the provisions of this section, insofar as applicable and  
9 not inconsistent with such provisions. Such duties as are  
10 imposed upon the collector of customs or any other person in  
11 respect to the seizure and forfeiture of vessels, vehicles, mer-  
12 chandise, and baggage under the customs laws shall be per-  
13 formed with respect to seizures and forfeitures of property  
14 used or intended for use in violation of this section by such  
15 officers, agents, or other persons as may be designated for  
16 that purpose by the Attorney General.

17       “(e) This section shall not apply to any bingo game, lot-  
18 tery, or similar game of chance conducted by an organization  
19 exempt from tax under paragraph (3) of subsection (c) of  
20 section 501 of the Internal Revenue Code of 1954, as  
21 amended, if no part of the gross receipts derived from such  
22 activity inures to the benefit of any private shareholder, mem-  
23 ber, or employee of such organization except as compensation  
24 for actual expenses incurred by him in the conduct of such  
25 activity.”

1       **(b)** *The analysis of chapter 95, title 18, United States*  
 2 *Code, is amended by adding at the end thereof the following*  
 3 *new item:*

*“1955. Prohibition of illegal gambling businesses.”*

4 *PART D—COMMISSION TO REVIEW NATIONAL POLICY*  
 5 *TOWARD GAMBLING*  
 6 *ESTABLISHMENT*

7       **SEC. 804. (a)** *There is hereby established two years after*  
 8 *the effective date of this Act a Commission on the Review of*  
 9 *the National Policy Toward Gambling.*

10       **(b)** *The Commission shall be composed of fifteen members*  
 11 *appointed as follows:*

12           **(1)** *four appointed by the President of the Senate*  
 13 *from Members of the Senate, of whom two shall be mem-*  
 14 *bers of the majority party, and two shall be members of*  
 15 *the minority party;*

16           **(2)** *four appointed by the Speaker of the House of*  
 17 *Representatives from Members of the House of Repre-*  
 18 *sentatives, of whom two shall be members of the majority*  
 19 *party, and two shall be members of the minority party;*  
 20 *and*

21           **(3)** *seven appointed by the President of the United*  
 22 *States from persons specially qualified by training and*  
 23 *experience to perform the duties of the Commission, none*

1 of whom shall be officers of the executive branch of the  
2 Government.

3       (c) *The President of the United States shall designate*  
4   *a Chairman from among the members of the Commission.*  
5   *Any vacancy in the Commission shall not affect its powers but*  
6   *shall be filled in the same manner in which the original ap-*  
7   *pointment was made.*

8        (d) *Eight members of the Commission shall constitute a*  
9    *quorum.*

## DUTIES

11        SEC. 805. (a) *It shall be the duty of the Commission to*  
12 *conduct a comprehensive legal and factual study of gambling*  
13 *in the United States and existing Federal, State, and local*  
14 *policy and practices with respect to legal prohibition and*  
15 *taxation of gambling activities and to formulate and propose*  
16 *such changes in those policies and practices as the Commission*  
17 *may deem appropriate. In such study and review the Com-*  
18 *mission shall—*

(1) review the effectiveness of existing practices in law enforcement, judicial administration, and corrections in the United States and in foreign legal jurisdictions for the enforcement of the prohibition and taxation of gambling activities and consider possible alternatives to such practices; and

25 (2) prepare a study of existing statutes of the United

1     *States that prohibit and tax gambling activities, and such*  
2     *a codification, revision or repeal thereof as the Commis-*  
3     *sion shall determine to be required to carry into effect such*  
4     *policy and practice changes as it may deem to be neces-*  
5     *sary or desirable.*

6        (b) *The Commission shall make such interim reports*  
7        *as it deems advisable. It shall make a final report of its find-*  
8        *ings and recommendations to the President of the United*  
9        *States and to the Congress within the four-year period follow-*  
10       *ing the establishment of the Commission.*

11       (c) Sixty days after the submission of its final report,  
12       the Commission shall cease to exist.

## POWERS

14        *SEC. 806. (a) The Commission or any duly authorized*  
15 *subcommittee or member thereof may, for the purpose of*  
16 *carrying out the provisions of this title, hold such hearings, sit*  
17 *and act at such times and places, administer such oaths, and*  
18 *require by subpoena or otherwise the attendance and testimony*  
19 *of such witnesses and the production of such books, records,*  
20 *correspondence, memorandums, papers and documents as the*  
21 *Commission or such subcommittee or member may deem advis-*  
22 *able. Any member of the Commission may administer oaths*  
23 *or affirmations to witnesses appearing before the Commission*  
24 *or before such subcommittee or member. Subpenas may be*  
25 *issued under the signature of the Chairman or any duly design-*



1 nated member of the Commission, and may be served by any  
2 person designated by the Chairman or such member.

3 (b) In the case of contumacy or refusal to obey a subpoena  
4 issued under subsection (a) by any person who resides, is  
5 found, or transacts business within the jurisdiction of any dis-  
6 trict court of the United States, the district court, at the re-  
7 quest of the Chairman of the Commission, shall have jurisdic-  
8 tion to issue to such person an order requiring such person  
9 to appear before the Commission or a subcommittee or mem-  
10 ber thereof, there to produce evidence if so ordered, or there to  
11 give testimony touching the matter under inquiry. Any failure  
12 of any such person to obey any such order of the court may be  
13 punished by the court as a contempt thereof.

14 (c) The Commission shall be "an agency of the United  
15 States" under subsection (1), section 6001, title 18, United  
16 States Code for the purpose of granting immunity to  
17 witnesses.

18 (d) Each department, agency, and instrumentality of  
19 the executive branch of the Government including independent  
20 agencies, is authorized and directed to furnish to the Commis-  
21 sion, upon request made by the Chairman, on a reimbursable  
22 basis or otherwise, such statistical data, reports, and other in-  
23 formation as the Commission deems necessary to carry out its  
24 functions under this title. The Chairman is further authorized  
25 to call upon the departments, agencies, and other offices of  
26 the several States to furnish, on a reimbursable basis or other-

1 wise, such statistical data, reports, and other information as  
 2 the Commission deems necessary to carry out its functions  
 3 under this title.

#### 4 COMPENSATION AND EXEMPTION OF MEMBERS

5 SEC. 807. (a) A member of the Commission who is a  
 6 Member of Congress or a member of the Federal judiciary  
 7 shall serve without additional compensation, but shall be re-  
 8 imburSED for travel, subsistence, and other necessary ex-  
 9 penses incurred in the performance of duties vested in the  
 10 Commission.

11 (b) A member of the Commission who is not a member  
 12 of Congress or a member of the Federal judiciary shall re-  
 13 ceive \$100 per diem when engaged in the actual perform-  
 14 ance of duties vested in the Commission plus reimbursement  
 15 for travel, subsistence, and other necessary expenses incurred  
 16 in the performance of such duties.

#### 17 STAFF

18 SEC. 808. (a) Subject to such rules and regulations as  
 19 may be adopted by the Commission, the Chairman shall have  
 20 the power to—

21 (1) appoint and fix the compensation of an Execu-  
 22 tive Director, and such additional staff personnel as he  
 23 deems necessary, without regard to the provisions of title  
 24 5, United States Code, governing appointments in the  
 25 competitive service, and without regard to the provisions

1 of chapter 51 and subchapter III of chapter 53 of such  
2 title relating to classification and General Schedule pay  
3 rates, but at rates not in excess of the maximum rate for  
4 GS-18 of the General Schedule under section 5332 of  
5 such title; and

6           (2) *procure temporary and intermittent services to*  
7           *the same extent as is authorized by section 3109 of title 5,*  
8           *United States Code, but at rates not to exceed \$100 a day*  
9           *for individuals.*

(b) In making appointments pursuant to this subsection, the Chairman shall include among his appointments individuals determined by the Chairman to be competent social scientists, lawyers, and law enforcement officers.

14 *EXPENSES*

15        *SEC. 809. There are hereby authorized to be appropriated*  
16        *to the Commission such sums as may be necessary to carry*  
17        *this title into effect.*

18 *Part E—General Provisions*

19        *SEC. 810. Paragraph (c), subsection (1), section 2516,*  
20   *title 18, United States Code, is amended by adding “section*  
21   *1511 (obstruction of State or local law enforcement)” after*  
22   *“section 1510 (obstruction of criminal investigations),” and*  
23   *by adding “section 1955 (prohibition of business enterprises*  
24   *of gambling),” after “section 1954 (offer, acceptance, or*  
25   *solicitation to influence operations of employee benefit*  
26   *plans),”.*

1        *SEC. 811. No provision of this title indicates an intent on*  
2        *the part of the Congress to occupy the field in which such pro-*  
3        *vision operates to the exclusion of the law of a State or*  
4        *possession, or a political subdivision of a State or possession,*  
5        *on the same subject matter, or to relieve any person of any*  
6        *obligation imposed by any law of any State or possession,*  
7        *or a political subdivision of a State or possession.*

8 TITLE IX—RACKETEER INFLUENCED AND  
9 CORRUPT ORGANIZATIONS

10        *SEC. 901. (a) Title 18, United States Code, is amended*  
11   *by adding immediately after chapter 95 thereof the following*  
12   *new chapter:*

13       *“Chapter 96.—RACKETEER INFLUENCED AND*  
14       *CORRUPT ORGANIZATIONS*

*"Sec.*

"1961. *Definitions.*

"1962. *Prohibited racketeering activities.*

"1963. Criminal penalties.

"1964. Civil remedies.

"1965. *Venue and process.*

"1966. Expedition of actions.

"1967. *Evidence.*

"1968. Civil investigative demand.

15 “§ 1961. *Definitions*

16        “*As used in this chapter—*

17           “(1) ‘racketeering activity’ means (A) any act or  
18           threat involving murder, kidnaping, gambling, arson,  
19           robbery, bribery, extortion, or dealing in narcotic or other  
20           dangerous drugs, which is chargeable under State law

1        *and punishable by imprisonment for more than one year;*  
2        *(B) any act which is indictable under any of the follow-*  
3        *ing provisions of title 18, United States Code: Section*  
4        *201 (relating to bribery), section 224 (relating to sports*  
5        *bribery), sections 471, 472, and 473 (relating to counter-*  
6        *feiting), section 659 (relating to theft from interstate*  
7        *shipment), section 664 (relating to embezzlement from*  
8        *pension and welfare funds), sections 891-894 (relating*  
9        *to extortionate credit transactions), section 1084 (relat-*  
10       *ing to the transmission of gambling information), section*  
11       *1341 (relating to mail fraud), section 1343 (relating to*  
12       *wire fraud), section 1503 (relating to obstruction of*  
13       *justice), section 1510 (relating to obstruction of criminal*  
14       *investigations), section 1511 (relating to the obstruction*  
15       *of State or local law enforcement), section 1951 (relat-*  
16       *ing to interference with commerce, robbery, or extortion),*  
17       *section 1952 (relating to racketeering), section 1953*  
18       *(relating to interstate transportation of wagering para-*  
19       *phernalia), section 1954 (relating to unlawful welfare*  
20       *fund payments), section 1955 (relating to the prohibition*  
21       *of illegal gambling businesses), sections 2314 and 2315*  
22       *(relating to interstate transportation of stolen property),*  
23       *sections 2421-24 (relating to white slave traffic), (C)*  
24       *any act which is indictable under title 29, United States*  
25       *Code, section 186 (dealing with restrictions on payments*

1     *and loans to labor organizations) or section 501(c) (re-*  
2     *lating to embezzlement from union funds), or (D) any*  
3     *offense involving bankruptcy fraud, fraud in the sale of*  
4     *securities, or the manufacture, importation, receiving,*  
5     *concealment, buying, selling or otherwise dealing in nar-*  
6     *cotic or other dangerous drugs, punishable under any*  
7     *law of the United States;*

8             *“(2) ‘State’ means any State of the United States,*  
9     *the District of Columbia, the Commonwealth of Puerto*  
10    *Rico, any territory or possession of the United States,*  
11    *any political subdivision, or any department, agency or*  
12    *instrumentality thereof;*

13            *“(3) ‘person’ includes any individual or entity ca-*  
14    *pable of holding a legal or beneficial interest in property;*

15            *“(4) ‘enterprise’ includes any individual, partner-*  
16    *ship, corporation, association, or other legal entity, and*  
17    *any union or group of individuals associated in fact*  
18    *although not a legal entity;*

19            *“(5) ‘pattern of racketeering activity’ requires at*  
20    *least two acts of racketeering activity, one of which*  
21    *occurred after the effective date of this chapter;*

22            *“(6) ‘unlawful debt’ means a debt (A) which is*  
23    *unenforceable under State or Federal law in whole or*  
24    *in part as to principal or interest because of the laws*  
25    *relating to gambling or usury, and (B) which was in-*

1       *curring in connection with the business of gambling or the*  
2       *business of lending money or a thing of value at a usuri-*  
3       *ous rate, where the usurious rate is at least twice the*  
4       *permitted rate;*

5               “(7) ‘racketeering investigator’ means any attorney  
6       *or investigator so designated by the Attorney General*  
7       *and charged with the duty of enforcing or carrying into*  
8       *effect this chapter;*

9               “(8) ‘racketeering investigation’ means any inquiry  
10       *conducted by any racketeering investigator for the pur-*  
11       *pose of ascertaining whether any person has been*  
12       *involved in any violation of this chapter or of any final*  
13       *order, judgment, or decree of any court of the United*  
14       *States, duly entered in any case or proceeding arising*  
15       *under this chapter;*

16               “(9) ‘documentary material’ includes any book,  
17       *paper, document, record, recording, or other material;*  
18       *and*

19               “(10) ‘Attorney General’ includes the Attorney  
20       *General of the United States, the Deputy Attorney Gen-*  
21       *eral of the United States, any Assistant Attorney General*  
22       *of the United States, or any employee of the Department*  
23       *of Justice or any employee of any department or agency*  
24       *of the United States so designated by the Attorney Gen-*  
25       *eral to carry out the powers conferred on the Attorney*

1       General by this chapter. Any department or agency so  
2       designated may use in investigations authorized by this  
3       chapter either the investigative provisions of this chapter  
4       or the investigative power of such department or agency  
5       otherwise conferred by law.

6   **“§ 1962. Prohibited activities**

7       “(a) It shall be unlawful for any person who has  
8       received any income derived, directly or indirectly, from a  
9       pattern of racketeering activity or through collection of an  
10      unlawful debt in which such person has participated as a  
11      principal within the meaning of section 2, title 18, United  
12      States Code, to use or invest, directly or indirectly, any part  
13      of such income, or the proceeds of such income, in acquisition  
14      of any interest in, or the establishment or operation of, any  
15      enterprise which is engaged in, or the activities of which  
16      affect, interstate or foreign commerce. A purchase of securi-  
17      ties on the open market for purposes of investment, and with-  
18      out the intention of controlling or participating in the control  
19      of the issuer, or of assisting another to do so, shall not be  
20      unlawful under this subsection if the securities of the issuer  
21      held by the purchaser, the members of his immediate family,  
22      and his or their accomplices in any pattern or racketeering  
23      activity or the collection of an unlawful debt after such pur-  
24      chase do not amount in the aggregate to one percent of the out-  
25      standing securities of any one class, and do not confer, either



1 *in law or in fact, the power to elect one or more directors of*  
2 *the issuer.*

3       “(b) *It shall be unlawful for any person through a*  
4 *pattern of racketeering activity or through collection of an*  
5 *unlawful debt to acquire or maintain, directly or indirectly,*  
6 *any interest in or control of any enterprise which is en-*  
7 *gaged in, or the activities of which affect, interstate or foreign*  
8 *commerce.*

9       “(c) *It shall be unlawful for any person employed by*  
10 *or associated with any enterprise engaged in, or the ac-*  
11 *tivities of which affect, interstate or foreign commerce, to*  
12 *conduct or participate, directly or indirectly, in the conduct*  
13 *of such enterprise's affairs through a pattern of racketeering*  
14 *activity or collection of unlawful debt.*

15       “(d) *It shall be unlawful for any person to conspire*  
16 *to violate any of the provisions of subsections (a), (b), or*  
17 *(c) of this section.*

18       “(e) *A violation of this section shall be deemed to con-*  
19 *tinue so long as the person who committed the violation*  
20 *continues to receive any benefit from the violation.*

21       “§ 1963. **Criminal penalties**

22       “(a) *Whoever violates any provision of section 1962*  
23 *of this chapter shall be fined not more than \$25,000 or im-*  
24 *prisoned not more than twenty years, or both, and shall*  
25 *forfeit to the United States (1) any interest he has acquired*

1 or maintained in violation of section 1962, and (2) any  
2 interest in, security of, claim against, or property or con-  
3 tractual right of any kind affording a source of influence  
4 over, any enterprise which he has established, operated, con-  
5 trolled, conducted, or participated in the conduct of, in  
6 violation of section 1962.

7 “(b) In any action brought by the United States under  
8 this section, the district courts of the United States shall  
9 have jurisdiction to enter such restraining orders or pro-  
10 hibitions, or to take such other actions, including, but not  
11 limited to, the acceptance of satisfactory performance bonds,  
12 in connection with any property or other interest subject  
13 to forfeiture under this section, as it shall deem proper.

14 “(c) Upon conviction of a person under this section, the  
15 court shall authorize the Attorney General to seize all prop-  
16 erty or other interest declared forfeited under this section  
17 upon such terms and conditions as the court shall deem  
18 proper. If a property right or other interest is not exercisable  
19 or transferable for value by the United States, it shall ex-  
20 pire, and shall not revert to the convicted person. All pro-  
21 visions of law relating to the disposition of property, or the  
22 proceeds from the sale thereof, or the remission or mitigation  
23 of forfeitures for violation of the customs laws, and the com-  
24 promise of claims and the award of compensation to in-  
25 formers in respect of such forfeitures shall apply to for-

1 *feitures incurred, or alleged to have been incurred, under*  
2 *the provisions of this section, insofar as applicable and not*  
3 *inconsistent with the provisions hereof. Such duties as are*  
4 *imposed upon the collector of customs or any other person*  
5 *with respect to the disposition of property under the customs*  
6 *laws shall be performed under this chapter by the Attorney*  
7 *General. The United States shall dispose of all such property*  
8 *as soon as commercially feasible, making due provision for*  
9 *the rights of innocent persons.*

10 **“§ 1964. Civil remedies**

11       “(a) *The district courts of the United States shall have*  
12 *jurisdiction to prevent and restrain violations of section 1962*  
13 *of this chapter by issuing appropriate orders, including, but*  
14 *not limited to: ordering any person to divest himself of any*  
15 *interest, direct or indirect, in any enterprise; imposing*  
16 *reasonable restrictions on the future activities or investments*  
17 *of any person, including, but not limited to, prohibiting any*  
18 *person from engaging in the same type of endeavor as the*  
19 *enterprise engaged in, the activities of which affect inter-*  
20 *state or foreign commerce; or ordering dissolution or reor-*  
21 *ganization of any enterprise, making due provision for the*  
22 *rights of innocent persons.*

23       “(b) *The Attorney General may institute proceedings*  
24 *under this section. In any action brought by the United*  
25 *States under this section, the court shall proceed as soon as*

1 *practicable to the hearing and determination thereof. Pending*  
2 *final determination thereof, the court may at any time enter*  
3 *such restraining orders or prohibitions, or take such other*  
4 *actions, including the acceptance of satisfactory performance*  
5 *bonds, as it shall deem proper.*

6 “(c) *A final judgment or decree rendered in favor of*  
7 *the United States in any criminal proceeding brought by the*  
8 *United States under this chapter shall estop the defendant*  
9 *from denying the essential allegations of the criminal offense*  
10 *in any subsequent civil proceeding brought by the United*  
11 *States.*

12 “§ 1965. *Venue and process*

13 “(a) *Any civil action or proceeding under this chapter*  
14 *against any person may be instituted in the district court of*  
15 *the United States for any district in which such person*  
16 *resides, is found, has an agent, or transacts his affairs.*

17 “(b) *In any action under section 1964 of this chapter in*  
18 *any district court of the United States in which it is shown*  
19 *that the ends of justice require that other parties residing in*  
20 *any other district be brought before the court, the court may*  
21 *cause such parties to be summoned, and process for that*  
22 *purpose may be served in any judicial district of the United*  
23 *States by the marshal thereof.*

24 “(c) *In any civil or criminal action or proceeding insti-*

1 *tuted by the United States under this chapter in the district*  
2 *court of the United States for any judicial district, subpoenas*  
3 *issued by such court to compel the attendance of witnesses*  
4 *may be served in any other judicial district, except that in*  
5 *any civil action or proceeding no such subpoena shall be issued*  
6 *for service upon any individual who resides in another dis-*  
7 *trict at a place more than one hundred miles from the place*  
8 *at which such court is held without approval given by a judge*  
9 *of such court upon a showing of good cause.*

10       “(d) *All other process in any action or proceeding*  
11 *under this chapter may be served on any person in any*  
12 *judicial district in which such person resides, is found, has an*  
13 *agent, or transacts his affairs.*

14       “§ 1966. ***Expedition of actions***

15       “*In any civil action instituted under this chapter by the*  
16 *United States in any district court of the United States, the*  
17 *Attorney General may file with the clerk of such court a cer-*  
18 *tificate stating that in his opinion the case is of general public*  
19 *importance. A copy of that certificate shall be furnished im-*  
20 *mediately by such clerk to the chief judge or in his absence to*  
21 *the presiding district judge of the district in which such action*  
22 *is pending. Upon receipt of such copy, such judge shall des-*  
23 *ignate immediately a judge of that district to hear and de-*  
24 *termine such action. The judge so designated shall assign*  
25 *such action for hearing as soon as practicable, participate in*

1 *the hearings and determination thereof, and cause such ac-*  
2 *tion to be expedited in every way.*

3 **“§ 1967. Evidence**

4 *“In any proceeding ancillary to or in any civil action*  
5 *instituted by the United States under this chapter the pro-*  
6 *ceedings shall be open to the public, and no order closing any*  
7 *such proceeding shall be made or enforced.*

8 **“§ 1968. Civil investigative demand**

9 *“(a) Whenever the Attorney General has reason to be-*  
10 *lieve that any person or enterprise may be in possession, cus-*  
11 *tody, or control of any documentary material relevant to a*  
12 *racketeering investigation, he may, prior to the institution of a*  
13 *civil or criminal proceeding thereon, issue in writing, and*  
14 *cause to be served upon such person, a civil investigative de-*  
15 *mand requiring such person to produce such material for*  
16 *examination.*

17 *“(b) Each such demand shall—*

18 *“(1) state the nature of the conduct constituting the*  
19 *alleged racketeering violation which is under investiga-*  
20 *tion and the provision of law applicable thereto;*

21 *“(2) describe the class or classes of documentary*  
22 *material produced thereunder with such definiteness and*  
23 *certainty as to permit such material to be fairly identi-*  
24 *fied;*

25 *“(3) state that the demand is returnable forthwith*

1       or prescribe a return date which will provide a reason-  
2       able period of time within which the material so de-  
3       manded may be assembled and made available for in-  
4       spection and copying or reproduction; and

5               “(4) identify the custodian to whom such material  
6       shall be made available.

7       “(c) No such demand shall—

8               “(1) contain any requirement which would be held  
9       to be unreasonable if contained in a subpoena duces tecum  
10      issued by a court of the United States in aid of a grand  
11      jury investigation of such alleged racketeering violation;  
12      or

13              “(2) require the production of any documentary evi-  
14      dence which would be privileged from disclosure if  
15      demanded by a subpoena duces tecum issued by a court  
16      of the United States in aid of a grand jury investigation  
17      of such alleged racketeering violation.

18       “(d) Service of any such demand or any petition filed  
19      under this section may be made upon a person by—

20              “(1) delivering a duly executed copy thereof to any  
21      partner, executive officer, managing agent, or general  
22      agent thereof, or to any agent thereof authorized by  
23      appointment or by law to receive service of process on  
24      behalf of such person, or upon any individual person;

25              “(2) delivering a duly executed copy thereof to the

1      *principal office or place of business of the person to be*  
2      *served; or*

3            *“(3) depositing such copy in the United States*  
4      *mail, by registered or certified mail duly addressed to*  
5      *such person at its principal office or place of business.*

6            *“(e) A verified return by the individual serving any such*  
7      *demand or petition setting forth the manner of such service*  
8      *shall be prima facie proof of such service. In the case of serv-*  
9      *ice by registered or certified mail, such return shall be ac-*  
10     *companied by the return post office receipt of delivery of such*  
11     *demand.*

12           *“(f)(1) The Attorney General shall designate a*  
13     *racketeering investigator to serve as racketeer document*  
14     *custodian, and such additional racketeering investigators*  
15     *as he shall determine from time to time to be necessary to*  
16     *serve as deputies to such officer.*

17           *“(2) Any person upon whom any demand issued*  
18     *under this section has been duly served shall make such*  
19     *material available for inspection and copying or repro-*  
20     *duction to the custodian designated therein at the prin-*  
21     *icipal place of business of such person, or at such other*  
22     *place as such custodian and such person thereafter may*  
23     *agree and prescribe in writing or as the court may direct,*  
24     *pursuant to this section on the return date specified in*  
25     *such demand, or on such later date as such custodian*



1        *may prescribe in writing. Such person may upon writ-*  
2        *ten agreement between such person and the custodian*  
3        *substitute for copies of all or any part of such material*  
4        *originals thereof.*

5            *“(3) The custodian to whom any documentary*  
6        *material is so delivered shall take physical possession*  
7        *thereof, and shall be responsible for the use made thereof*  
8        *and for the return thereof pursuant to this chapter. The*  
9        *custodian may cause the preparation of such copies of*  
10       *such documentary material as may be required for offi-*  
11       *cial use under regulations which shall be promulgated by*  
12       *the Attorney General. While in the possession of the cus-*  
13       *todian, no material so produced shall be available for*  
14       *examination, without the consent of the person who pro-*  
15       *duced such material, by any individual other than the*  
16       *Attorney General. Under such reasonable terms and*  
17       *conditions as the Attorney General shall prescribe, docu-*  
18       *mentary material while in the possession of the custodian*  
19       *shall be available for examination by the person who pro-*  
20       *duced such material or any duly authorized representa-*  
21       *tives of such person.*

22            *“(4) Whenever any attorney has been designated to*  
23        *appear on behalf of the United States before any court or*  
24        *grand jury in any case or proceeding involving any*  
25        *alleged violation of this chapter, the custodian may deliver*  
26        *to such attorney such documentary material in the posses-*

1        *sion of the custodian as such attorney determines to be*  
2        *required for use in the presentation of such case or pro-*  
3        *ceeding on behalf of the United States. Upon the conclu-*  
4        *sion of any such case or proceeding, such attorney shall*  
5        *return to the custodian any documentary material so with-*  
6        *drawn which has not passed into the control of such court*  
7        *or grand jury through the introduction thereof into the*  
8        *record of such case or proceeding.*

9            *“(5) Upon the completion of—*

10            *“(i) the racketeering investigation for which*  
11            *any documentary material was produced under this*  
12            *chapter, and*

13            *“(ii) any case or proceeding arising from such*  
14            *investigation,*

15        *the custodian shall return to the person who produced*  
16        *such material all such material other than copies thereof*  
17        *made by the Attorney General pursuant to this subsec-*  
18        *tion which has not passed into the control of any court or*  
19        *grand jury through the introduction thereof into the rec-*  
20        *ord of such case or proceeding.*

21            *“(6) When any documentary material has been*  
22        *produced by any person under this section for use in any*  
23        *racketeering investigation, and no such case or proceed-*  
24        *ing arising therefrom has been instituted within a reason-*  
25        *able time after completion of the examination and anal-*  
26        *ysis of all evidence assembled in the course of such*

1        *investigation, such person shall be entitled, upon written*  
2        *demand made upon the Attorney General, to the return*  
3        *of all documentary material other than copies thereof*  
4        *made pursuant to this subsection so produced by such*  
5        *person.*

6            *“(7) In the event of the death, disability, or separa-*  
7        *tion from service of the custodian of any documentary*  
8        *material produced under any demand issued under this*  
9        *section or the official relief of such custodian from respon-*  
10       *sibility for the custody and control of such material, the*  
11       *Attorney General shall promptly—*

12            *“(i) designate another racketeering investigator*  
13        *to serve as custodian thereof, and*

14            *“(ii) transmit notice in writing to the person*  
15        *who produced such material as to the identity and*  
16        *address of the successor so designated.*

17        *Any successor so designated shall have with regard to*  
18        *such materials all duties and responsibilities imposed by*  
19        *this section upon his predecessor in office with regard*  
20        *thereto, except that he shall not be held responsible for*  
21        *any default or dereliction which occurred before his des-*  
22        *ignation as custodian.*

23            *“(g) Whenever any person fails to comply with any civil*  
24        *investigative demand duly served upon him under this section*  
25        *or whenever satisfactory copying or reproduction of any such*  
26        *material cannot be done and such person refuses to surrender*

1 such material, the Attorney General may file, in the district  
2 court of the United States for any judicial district in which  
3 such person resides, is found, or transacts business, and serve  
4 upon such person a petition for an order of such court for the  
5 enforcement of this section, except that if such person trans-  
6 acts business in more than one such district such petition shall  
7 be filed in the district in which such person maintains his prin-  
8 cipal place of business, or in such other district in which such  
9 person transacts business as may be agreed upon by the parties  
10 to such petition.

11 “(h) Within twenty days after the service of any such  
12 demand upon any person, or at any time before the return  
13 date specified in the demand, whichever period is shorter,  
14 such person may file, in the district court of the United States  
15 for the judicial district within which such person resides,  
16 is found, or transacts business, and serve upon such cus-  
17 todian a petition for an order of such court modifying or  
18 setting aside such demand. The time allowed for compli-  
19 ance with the demand in whole or in part as deemed proper  
20 and ordered by the court shall not run during the pendency  
21 of such petition in the court. Such petition shall specify each  
22 ground upon which the petitioner relies in seeking such relief,  
23 and may be based upon any failure of such demand to comply  
24 with the provisions of this section or upon any constitutional  
25 or other legal right or privilege of such person.

1       “(i) At any time during which any custodian is in  
 2 custody or control of any documentary material delivered  
 3 by any person in compliance with any such demand, such  
 4 person may file, in the district court of the United States  
 5 for the judicial district within which the office of such custo-  
 6 dian is situated, and serve upon such custodian a petition  
 7 for an order of such court requiring the performance by  
 8 such custodian of any duty imposed upon him by this section.

9       “(j) Whenever any petition is filed in any district court  
 10 of the United States under this section, such court shall have  
 11 jurisdiction to hear and determine the matter so presented,  
 12 and to enter such order or orders as may be required to carry  
 13 into effect the provisions of this section.”

14       (b) The table of contents of part I, title 18, United  
 15 States Code, is amended by adding immediately after

“95. Racketeering -----1951”

16 the following new item:

“96. Racketeer Influenced and Corrupt Organizations-----1961”

17       SEC. 902. (a) Paragraph (c), subsection (1), section  
 18 2516, title 18, United States Code, is amended by inserting  
 19 at the end thereof between the parenthesis and the semicolon  
 20 “, section 1963 (violations with respect to racketeer influenced  
 21 and corrupt organizations)”.

22       (b) Subsection (3), section 2517, title 18, United  
 23 States Code, is amended by striking “criminal proceedings  
 24 in any court of the United States or of any State or in any

1 *Federal or State grand jury proceeding*” and inserting in  
2 *lieu thereof “proceeding held under the authority of the*  
3 *United States or of any State or political subdivision*  
4 *thereof”.*

5 *SEC. 903. The third paragraph, section 1505, title*  
6 *18, United States Code, is amended by inserting “or sec-*  
7 *tion 1968 of this title” after “Act” and before “willfully”.*

8 *SEC. 904. (a) The provisions of this title shall be*  
9 *liberally construed to effectuate its remedial purposes.*

10 *(b) Nothing in this title shall supersede any provision*  
11 *of Federal, State, or other law imposing criminal penalties*  
12 *or affording civil remedies in addition to those provided*  
13 *for in this title.*

14 *(c) Nothing contained in this title shall impair the*  
15 *authority of any attorney representing the United States*  
16 *to—*

17 *(1) lay before any grand jury impaneled by*  
18 *any district court of the United States any evidence*  
19 *concerning any alleged racketeering violation of law;*

20 *(2) invoke the power of any such court to compel*  
21 *the production of any evidence before any such grand*  
22 *jury; or*

23 *(3) institute any proceeding to enforce any order*  
24 *or process issued in execution of such power or to*

3 *TITLE X—DANGEROUS SPECIAL OFFENDER*  
4 *SENTENCING*

5        *SEC. 1001. (a) Chapter 227, title 18, United States*  
6        *Code, is amended by adding at the end thereof the following*  
7        *new sections:*

8 “§ 3575. Increased sentence for dangerous special offenders

9           “(a) Whenever an attorney charged with the prosecution  
10 of a defendant in a court of the United States for an alleged  
11 felony committed when the defendant was over the age of  
12 twenty-one years has reason to believe that the defendant is a  
13 dangerous special offender such attorney, a reasonable time  
14 before trial or acceptance by the court of a plea of guilty or  
15 nolo contendere, may sign and file with the court, and may  
16 amend, a notice (1) specifying that the defendant is a danger-  
17 ous special offender who upon conviction for such felony is  
18 subject to the imposition of a sentence under subsection (b)  
19 of this section, and (2) setting out with particularity the  
20 reasons why such attorney believes the defendant to be a  
21 dangerous special offender. In no case shall the fact that the  
22 defendant is alleged to be a dangerous special offender be an  
23 issue upon the trial of such felony or in any manner be dis-  
24 closed to the jury.

25       “(b) Upon any plea of guilty or nolo contendere or verdict

1 or finding of guilty of the defendant of such felony, the court  
2 shall, before sentence is imposed, hold a hearing before the  
3 court alone. The court shall fix a time for the hearing, and  
4 notice thereof shall be given to the defendant and the United  
5 States at least ten days prior thereto. In connection with the  
6 hearing, the defendant and the United States shall be in-  
7 formed of the substance of such parts of the presentence report  
8 as the court intends to rely upon, except where there are placed  
9 in the record compelling reasons for withholding particular  
10 information, and shall be entitled to assistance of counsel,  
11 compulsory process, and cross-examination of such witnesses  
12 as appear at the hearing. A duly authenticated copy of a  
13 former judgment or commitment shall be prima facie evidence  
14 of such former judgment or commitment. If it appears by a  
15 preponderance of the information, including information sub-  
16 mitted during the trial of such felony and the sentencing hear-  
17 ing and so much of the presentence report as the court relies  
18 upon, that the defendant is a dangerous special offender, the  
19 court shall sentence the defendant to imprisonment for a term  
20 not to exceed thirty years. Otherwise it shall sentence the  
21 defendant in accordance with the law prescribing penalties for  
22 such felony. The court shall place in the record its findings,  
23 including an identification of the information relied upon in  
24 making such findings, and its reasons for the sentence imposed.  
25       “(c) This section shall not prevent the imposition and



1 *execution of a sentence of death or of imprisonment for life*  
2 *or for a term exceeding thirty years upon any person con-*  
3 *victed of an offense so punishable.*

4       “(d) *Notwithstanding any other provision of this sec-*  
5 *tion, the court shall not sentence a dangerous special offender*  
6 *to less than any mandatory minimum penalty prescribed by*  
7 *law for such felony.*

8       “(e) *A defendant is a special offender for purposes of*  
9 *this section if—*

10               “(1) *on two or more previous occasions the defend-*  
11 *ant has been convicted in a court of the United States,*  
12 *a State, the District of Columbia, the Commonwealth of*  
13 *Puerto Rico, a territory or possession of the United*  
14 *States, any political subdivision, or any department,*  
15 *agency or instrumentality thereof for an offense punish-*  
16 *able in such court by death or imprisonment in excess of*  
17 *one year, and for one or more of such convictions the de-*  
18 *fendant has been imprisoned prior to the commission of*  
19 *such felony; or*

20               “(2) *the defendant committed such felony as part*  
21 *of a pattern of conduct which was criminal under ap-*  
22 *plicable laws of any jurisdiction, which constituted a sub-*  
23 *stantial source of his income, and in which he manifested*  
24 *special skill or expertise; or*

25               “(3) *such felony was, or the defendant committed*

1        *such felony in furtherance of, a conspiracy with three or*  
2        *more other persons to engage in a pattern of conduct*  
3        *criminal under applicable laws of any jurisdiction, and*  
4        *the defendant did, or agreed that he would, initiate, or-*  
5        *ganize, plan, finance, direct, manage, or supervise all or*  
6        *part of such conspiracy or conduct, or give or receive a*  
7        *bribe or use force as all or part of such conduct.*

8        *A conviction shown to be invalid or for which the defendant*  
9        *has been pardoned on the ground of innocence shall be disre-*  
10       *garded for purposes of paragraph (1) of this subsection. In*  
11       *determining under paragraph (1) of this subsection whether*  
12       *the defendant has been convicted on two or more previous*  
13       *occasions, conviction for offenses charged in separate counts*  
14       *of a single charge or pleading, or in separate charges or*  
15       *pleadings tried in a single trial, shall be deemed to be con-*  
16       *viction on a single occasion. In support of findings under*  
17       *paragraph (2) of this subsection, it may be shown that the*  
18       *defendant has had in his own name or under his control*  
19       *income or property not explained as derived from a source*  
20       *other than such conduct.*

21        *“(f) A defendant is dangerous for purposes of this sec-*  
22        *tion if a period of confinement longer than that provided for*  
23        *such felony is required for the protection of the public from*  
24        *further criminal conduct by the defendant.*

25        *“(g) The time for taking an appeal from a conviction*

1 *for which sentence is imposed after proceedings under this*  
2 *section shall be measured from imposition of the original*  
3 *sentence.*

4 **“§ 3576. Review of sentence**

5       *“With respect to any sentence imposed on the defendant*  
6 *after proceedings under section 3575, a review may be taken*  
7 *by the defendant or the United States or both to a court of*  
8 *appeals. Any review by the United States shall be taken at*  
9 *least five days before expiration of the time for taking a review*  
10 *or appeal by the defendant and shall be diligently prosecuted.*  
11 *The sentencing court may, with or without motion and notice,*  
12 *extend the time for taking a review for a period not to exceed*  
13 *thirty days from the expiration of the time otherwise prescribed*  
14 *by law. The court shall not extend the time for taking a review*  
15 *by the United States after the time has expired. A court*  
16 *extending the time for taking a review by the United States*  
17 *shall extend the time for taking a review or appeal by the*  
18 *defendant for the same period. The court of appeals may,*  
19 *after considering the record, including the presentence report,*  
20 *information submitted during the trial of such felony and the*  
21 *sentencing hearing, and the findings and reasons of the sen-*  
22 *tencing court, affirm the sentence, impose or direct the im-*  
23 *position of any sentence which the sentencing court could*  
24 *originally have imposed, or remand for further sentencing*  
25 *proceedings and imposition of sentence, except that a sentence*

1 *may be increased or otherwise changed to the disadvantage*  
2 *of the defendant only on review taken by the United States*  
3 *and after hearing. Any withdrawal of review taken by the*  
4 *United States shall foreclose change to the disadvantage but*  
5 *not change to the advantage of the defendant. Any review*  
6 *taken by the United States may be dismissed on a showing*  
7 *of abuse of the right of the United States to take such review.*

8 **“§ 3577. Use of information for sentencing**

9       *“No limitation shall be placed on the information con-*  
10 *cerning the background, character and conduct of a person*  
11 *convicted of an offense which a court of the United States*  
12 *may receive and consider for the purpose of imposing an ap-*  
13 *propriate sentence.*

14 **“§ 3578. Conviction records**

15       *“(a) There is established within the Federal Bureau of*  
16 *Investigation of the Department of Justice a central reposi-*  
17 *tory for written judgments of conviction.*

18       *“(b) Upon the conviction of a defendant in a court of*  
19 *the United States, the District of Columbia, the Common-*  
20 *wealth of Puerto Rico, a territory or possession of the United*  
21 *States, any political subdivision, or any department, agency*  
22 *or instrumentality thereof for an offense punishable in such*  
23 *court by death or imprisonment in excess of one year, the*  
24 *court shall cause to be affixed to a copy of the written judg-*

1 *ment of conviction the fingerprints of the defendant together*  
2 *with certification by the court that the copy is a true copy of*  
3 *the written judgment of conviction and that the fingerprints*  
4 *are those of the defendant, and shall cause the copy to be for-*  
5 *warded to the central repository.*

6 “(c) *Copies maintained in the central repository shall*  
7 *not be public records. Attested copies thereof—*

8 “(1) *may be furnished for law enforcement pur-*  
9 *poses on request of a court or law enforcement or cor-*  
10 *rections officer of the United States, the District of*  
11 *Columbia, the Commonwealth of Puerto Rico, a territory*  
12 *or possession of the United States, any political sub-*  
13 *division, or any department, agency or instrumentality*  
14 *thereof;*

15 “(2) *may be furnished for law enforcement pur-*  
16 *poses on request of a court or law enforcement or cor-*  
17 *rections officer of a State, any political subdivision, or*  
18 *any department, agency or instrumentality thereof, if*  
19 *a statute of such State requires that, upon the conviction*  
20 *of a defendant in a court of the State or any political*  
21 *subdivision thereof for an offense punishable in such*  
22 *court by death or imprisonment in excess of one year, the*  
23 *court cause to be affixed to a copy of the written judg-*  
24 *ment of conviction the fingerprints of the defendant to-*  
25 *gether with certification by the court that the copy is a*

1     *true copy of the written judgment of conviction and that*  
 2     *the fingerprints are those of the defendant, and cause the*  
 3     *copy to be forwarded to the central repository; and*

4             *“(3) shall be admissible in any court of the United*  
 5     *States, the District of Columbia, the Commonwealth of*  
 6     *Puerto Rico, a territory or possession of the United*  
 7     *States, any political subdivision, or any department,*  
 8     *agency, or instrumentality thereof.”*

9     *(b) The analysis of chapter 227, title 18, United States*  
 10    *Code, is amended by adding at the end thereof the following*  
 11    *new items:*

*“3575. Increased sentence for dangerous special offenders.*

*“3576. Review of sentence.*

*“3577. Use of information for sentencing.*

*“3578. Conviction records.”*

12     *SEC. 1002. Section 3148, chapter 207, title 18, United*  
 13     *States Code, is amended by adding “or sentence review under*  
 14     *section 3576 of this title” immediately after “sentence”.*

# 15             *TITLE XI—GENERAL PROVISIONS*

16     *SEC. 1101. If the provisions of any part of this Act or*  
 17     *the application thereof to any person or circumstances be*  
 18     *held invalid, the provisions of the other parts and their*  
 19     *application to other persons or circumstances shall not be*  
 20     *affected thereby.*

Calendar No. 612

91ST CONGRESS  
1ST SESSION

**S. 30**

[Report No. 91-617]

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**A BILL**

Relating to the control of organized crime in  
the United States.

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By Mr. McCLELLAN, Mr. ERVIN, and  
Mr. HRUSKA

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JANUARY 15 (legislative day, JANUARY 10), 1969  
Read twice and referred to the Committee on the  
Judiciary

DECEMBER 18 (legislative day, DECEMBER 16), 1969  
**Reported with an amendment**